

DECEMBER 24TH, 1906.

DIVISIONAL COURT.

PRITTIE v. RICHARDSON.

*Principal and Agent—Agent's Commission on Sale of Land—
Purchaser Introduced by Third Person—Sub-agency of
Third Person—Evidence of.*

Appeal by plaintiff from judgment of MEREDITH, C.J., at the trial, dismissing without costs an action to recover commission on the sale of a hotel property by defendant to one Falconer. Plaintiff alleged that the property was brought to the notice of Falconer through the instrumentality of one Fawcett, who was Falconer's uncle, and plaintiff's agent, as plaintiff alleged.

John MacGregor, for plaintiff.

H. E. Rose, for defendant.

The judgment of the Court (MULOCK, C.J., ANGLIN, J., CLUTE, J.), was delivered by

CLUTE, J.:—Had credit been given to plaintiff's evidence by the trial Judge, sufficient would have been made out to entitle plaintiff to succeed, as it would have established the agency of Fawcett, under whose advice his nephew bought the property in question, after Fawcett had declined; but the trial Judge felt unable to accept plaintiff's evidence in this regard, and points out that in the examination *de bene esse* of Fawcett not one word of corroboration is found.

Plaintiff to be entitled to succeed must either shew that Fawcett was authorized to act as his agent, or that he assumed to act as his agent, and that he (plaintiff) ratified Fawcett's action. From the earliest times it has been established that no ratification is effectual unless the act has been done by the agent on behalf of the person who ratifies: Evans on Principal and Agent, 2nd ed., p. 64.

I have examined the evidence of Fawcett to ascertain whether anything can be found therein indicating the intention on his part to act as the agent of plaintiff in what took place between himself and his nephew. I can find no