

condition of the land. The learned judge said that if the
 questions made by the defendant were put upon his know-
 ledge or if they were not reasonably made by the defendant
 the fact that he acted upon and not caring whether they
 were true or false, the plaintiff could not recover. After stating
 following the evidence the learned judge in his written opin-
 ion said: "I do not think that there was fraud. I am not
 clear upon the evidence as to what all the representations
 made by the plaintiff to have been made by the defendant
 were in fact made, and I cannot find that the representations
 made by the defendant were either false or the know-
 ledge of the defendant or recklessly made by him, nor knowing
 or caring whether they were true or false. The facts here are
 quite different from those in *Scott v. Scott*, 1 O.W.N. 381
 and are more like those in *Wason v. Suburban Estates*
 Co. 4 O.W.N. 182. The defendant was only agent
 but as such he would be liable for any fraud perpetrated by him."
 The weight of evidence is that one-half of the section is a
 light wheat land; only the portion of one-quarter section could
 be designated poor, and that quarter is good pasture-land and
 has water very valuable to the farm as a whole, the remaining
 quarter is fair land. Trees in that part of Alberta section 14
 township 11 range 11 west of the 111 meridian have dropped
 out at the time of the plaintiff's purchase, the price has
 exceeded to pay could not be called excessive. The action will be
 dismissed and with costs and except costs of commission
 and evidence taken thereunder. These costs should not be
 allowed to the defendant. (Garrison Smith and A. Hugh
 for the plaintiffs, C. H. McKewen, K.C., and George H. H.
 for the defendant, J. Stewart, K.C., and George H. H.)