

As to the form of the action, I see no objection to the plaintiff suing in his own name. All the necessary parties are before the Court. The money deposited belonged to the plaintiff, was received by the defendant Vigeon from the plaintiff, and deposited for the plaintiff with the Imperial Bank, where the money still is, on special deposit. The money would have been returned but for the objection of the defendant company. The defendant company treat the action as if by Vigeon, acting as agent for the plaintiff.

The defendant Vigeon admits that the plaintiff is entitled to the money, and consents to its being paid to him. There is no cause of action shewn against Vigeon, so there will be judgment for him, dismissing the action as against him; and I see no reason for withholding costs.

There will be judgment for the plaintiff against the defendant company for \$5,000 with interest at 5 per cent. per annum from the 28th November, 1911, and with costs.

There will be a declaration that the \$5,000 received by the Imperial Bank of Canada, as the proceeds of the plaintiff's cheque, and interest thereon, if any, and now on deposit with that bank, is the property of the plaintiff. If that money or any part of it is paid to the plaintiff, it will be pro tanto in satisfaction of the plaintiff's judgment herein; if the defendant company pay and satisfy this judgment outside of and apart from the money in the bank on special deposit, as above-mentioned, then that money will belong to the defendant company.

DIVISIONAL COURT.

MARCH 8TH, 1912.

*RICE v. GALBRAITH.

Principal and Agent—Agent's Commission on Sale of Land—Employment of Agent to Find Purchaser—Parties Brought together by Intervention of Agent—Sale Effected by Vendor without Knowledge of Agent's Services.

Appeal by the plaintiffs from the judgment of DENTON, JUN. Co. C.J., dismissing an action in the County Court of the County of York for commission on the sale of land.

The appeal was heard by CLUTE, LATCHFORD, and SUTHERLAND, JJ.

G. H. Kilmer, K.C., for the plaintiffs.

J. J. Maclellan, for the defendant.

*To be reported in the Ontario Law Reports.