

FOX v. BELLEPERCHE—MIDDLETON, J.—DEC. 7.

*Fraud and Misrepresentation—Sale of Land—Statements of Vendors—Failure of Proof—Statement of what was Expected in Regard to Water-mains and Sewers—Misrepresentation of Fact.*—Action to rescind an agreement for the purchase of certain lands and to recover the money paid by the plaintiff. The action was tried without a jury at Sandwich. MIDDLETON, J., in a written judgment, said that the first misrepresentation alleged was, that Vine street, the main road to the lands, was 66 feet wide. This failed on the facts, for the street is of that width. The second was, that arrangements had been made and contracts let for the opening and grading of the street. This was shewn to be true, and the work was done. The third was, that arrangements had been made and contracts let for the laying of water-mains and the building of sewers on the streets. On the evidence, the making of this representation was not satisfactorily proved. Where a contract is executory, it may be avoided by any misrepresentation of fact. A mere statement as to what is expected to be done by the contracting party or by any one else, which does not amount to a contract, amounts to nothing. See *In re Fickus*, [1900] 1 Ch. 331, and cases there collected. Action dismissed with costs. T. Mercer Morton, for the plaintiff. J. H. Rodd, for the defendants.