

The question for decision was, whether the correspondence sufficiently identified the subject of the alleged contract.

There was no room for doubt as to what both parties were writing about—it was the property which the defendant had recently bought from the Meindls, a mercantile site with its adjuncts and accessories, easements, etc., a usable going concern. If the defendant had not meant the whole property obtained from the Meindls, when he wrote on the 22nd March, 1920, he would have defined what he was selling, have made stipulations as to the lane, and he would have wired in reply to the plaintiff's telegram of acceptance. As a matter of fact, it was only when the defendant got a better offer that he began to hedge and advance the amazing proposition that no lane was included in his offer.

The writings sufficiently identified the property as claimed by the plaintiff.

Counsel for the defendant did not raise any question as to the tender made on behalf of the plaintiff, if indeed any question was open to the defendant. Counsel for the plaintiff abandoned a claim for substantial damages made in his pleading, and stated that he would be content with nominal damages, although he had undoubtedly sustained considerable loss.

There should be judgment for the plaintiff for \$5 damages and directing the defendant to convey to the plaintiff the whole of the property conveyed by the Meindls, upon payment of the price agreed; the defendant to pay the plaintiff's costs of the action.

LENNOX, J.

DECEMBER 18TH, 1920.

McINTOSH v. WILSON.

Malicious Prosecution—Advice of Counsel—Failure to Lay Facts Fully before Counsel—Verdict of Jury—Damages—Costs.

An action for malicious prosecution and false arrest and imprisonment.

The action was tried with a jury at Picton.

J. W. Curry, K.C., for the plaintiff.

C. A. Payne, for the defendant.

LENNOX, J., in a written judgment, said that at the trial the plaintiff limited his claim for damages to the malicious prosecution branch.