

was done there at the same time, and it was signed after the interlineation. He says the words "option" was never mentioned, and there was no condition about the matter, nor any words uttered by the defendant to the effect that, if matters turned out as he calculated, he would take the stock. This latter statement the defendant had sworn to.

The burthen is undoubtedly on the plaintiff to shew that the document which he propounds, differing as it does from the document produced by the defendant (both being in the plaintiff's own handwriting), represents the true agreement.

Unless I found that one or other of the parties, from his demeanour or otherwise, was manifestly lying, it is plain that, without the evidence of Peterson, the plaintiff could not succeed. Now, Peterson's evidence is partly corroborative of the plaintiff's story, and equally corroborative of the defendant's. Therefore, it goes for nothing. I do not overlook the argument based on the expression "without interest," as being inapplicable to the case of a mere option; but I do not think it is sufficient to turn the scale.

Therefore, on the application of the rule regarding the burthen of proof, the plaintiff fails.

It may be that the plaintiff's explanation is true; and, if so, it is very unfortunate for him that he did not insist on having the interlineation made in both documents. He looked like a man of ordinary business capacity, and ought not to have allowed himself to be induced to neglect this reasonable precaution.

Entertaining, therefore, the doubt which I have expressed as to the correctness of this decision (I do not mean the legal correctness, as to which I have no doubt), in dismissing the action I make no order as to costs.

Action dismissed without costs.

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TEETZEL, J.

JULY 8TH, 1912.

HOLDEN v. RYAN.

*Covenant — Breach — Building Restrictions — Semi-detached Buildings — Width of Lot — "Appurtenant" — "Front" of Building — "Main Wall" — Distance from Centre of Street.*

Action for an injunction to restrain the defendant from erecting upon his land a building alleged by the plaintiff to be in violation of a certain building scheme, in accordance with which the lands were laid out by the original owner, and made subject to certain building restrictions running with the land.