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WINCHESTER, MASTER.

APRIL 14TH, 1903.

CHAMBERS.

EMPIRE LOAN CO. v. McRAE.

Specific Performance—Contract for Purchase of Land—Judgment for Payment of Price—Extension of Time—Payment on Account—Forfeiture—Relief against—Final Order of Sale.

Motion by plaintiffs for a final order of sale in an action by vendors for specific performance of a contract for purchase of land. On the 13th November, 1902, a judgment was pronounced directing specific performance, declaring that defendant had accepted the title to the land, and appointing a day for payment of the money, \$4,578.45. It was agreed by the parties that upon defendant paying \$500 the time for paying the whole sum should be extended until 26th March, 1903, and the judgment was issued in these terms. The \$500 was paid. The agreement provided that in case the balance of the \$4,578.45 was paid on or before the 26th March, it would be accepted in full, but in default of payment of such balance on that date, defendant should forfeit the \$500. Defendant not having paid the balance, this application was made.

W. E. Middleton, for defendant, asked liberty to pay only \$4,078, with subsequent interest and costs, in full.

C. D. Scott, for plaintiffs, contra.

THE MASTER.—The plaintiffs, coming to this Court for assistance, must deal equitably with defendant, and I hold that accepting \$500 from him in good faith on his purchase, and refusing to give him credit for it because he happened to be a week or two behind in paying up the balance, would not be equitable, notwithstanding that his agreement was to allow it to be forfeited. This Court has always relieved against