

not established. The purchaser registered the agreement against the plaintiff's lot; but, as the plaintiff said, his wife refused to proceed with the transaction, and, as the purchaser would not release him from his bargain, he attempted to find a person who would buy as trustee for him (the plaintiff) at a sale by the third mortgagee under the power of sale in his mortgage. The plaintiff had communications with the two defendants about the matter. The defendant Gurofsky bought the property; and the plaintiff alleged a conspiracy between the defendants to defraud him.

The learned Judge was of opinion that there was no evidence upon which it could be found that the defendant Gordon conspired with his co-defendant.

The plaintiff also alleged an agreement with the defendant Gurofsky that the latter would buy as trustee for him (the plaintiff). Such an arrangement must be proved with clearness and certainty: *Hull v. Allen* (1902), 1 O.W.R. 151, 782; *McKinnon v. Harris* (1909), 14 O.W.R. 786, 1 O.W.N. 101. Gurofsky admitted that there was an agreement; but said that it was that he should buy the property if, upon investigation, he thought well of it; and that, if a purchaser was found, and a sale completed, within three months, he would divide the profits with the plaintiff. He did buy the property, but no purchaser was found within the three months. The plaintiff had not proved that Gurofsky agreed to do any more than Gurofsky admitted. The trust was not established.

*Action dismissed with costs.*

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RE O'ROURKE—ROSE, J.—MARCH 14.

*Evidence—Claim against Estate of Deceased Person—Corroboration—Claim for Boarding and Lodging Deceased—Ascertainment of Amount Due—Rate Charged per Week—Reversal of Finding of Surrogate Court Judge—Executors.*—An appeal by Daniel Brunette from an order or certificate of DUNN, Co. C.J., sitting as Judge of the Surrogate Court of the County of Carleton, finding the appellant entitled as a creditor of the estate of James Edward O'Rourke, deceased, to \$125, the object of the appeal being to increase the amount. The claim was for boarding and lodging the deceased in a hotel kept by the appellant. The appeal was heard in the Weekly Court, Ottawa. Rose, J., in a written judgment, said that there was sufficient corroboration of the appellant's evidence that the deceased had board and lodging in the appellant's hotel during 1914, 1915, and 1916, and owed