

KELLY, J., gave reasons in writing for the same conclusion.

MEREDITH, C.J.:—I agree in the conclusion to which my learned brothers have come.

Appeal dismissed with costs.

DIVISIONAL COURT.

AUGUST 20TH, 1912.

*TRAVIS v. COATES.

*Principal and Agent—Agent's Commission on Sale of Land—
Purchaser Found by Agent—Abandonment of Purchase—
Subsequent Purchase through another Agent — Causa
Causans or Causa sine qua non.*

Appeal by the defendant from the judgment of DENTON, JUN. Co. C.J., in favour of the plaintiff, in an action in the County Court of the County of York, brought to recover a commission on the sale of land.

The appeal was heard by MEREDITH, C.J.C.P., RIDDELL and KELLY, JJ.

C. A. Moss, for the defendant.

T. N. Phelan, for the plaintiff.

The judgment of the Court was delivered by RIDDELL, J.:—
. . . The defendant owned a house known as No. 116 Curzon street, in Toronto, which was heavily incumbered. Mr. Ponton, a real estate agent, was acting for the mortgagee, and foreclosure was imminent. The defendant then put the property into Ponton's hands as sole agent for sale; Ponton seems to have made some attempt to sell, but did not succeed.

The plaintiff is a real estate agent; and, some time in August, 1911, got into communication with one J. J. Jerou, a prospective purchaser on behalf of his wife. The plaintiff went to the defendant and asked her if she would sell her house, and, if so, upon what terms, as he had a purchaser in view. The defendant then authorised the plaintiff to obtain a purchaser at the usual terms as to commission. The price first asked was \$5,000. Jerou at first offered \$4,200; and finally the parties came together, and

*To be reported in the Ontario Law Reports.