transactions entered into in the years 1906, 1907, and 1908. The plaintiff alleged that the representations made by the defendant by which the plaintiff was induced to invest in the shares of certain companies were untrue to the knowledge of the defendant; that the defendant assumed the position of an adviser of the plaintiff as to his financial investments; and that the plaintiff, having confidence in the defendant, relied on him in that respect; that that confidence was abused by the defendant for his own advantage; that all the investments proved worthless, and all the money which the plaintiff invested was lost to him, and was in the possession of the defendant.

The learned Chief Justice, after a careful examination of the evidence, said that his conclusion upon the whole case was, that the plaintiff failed to make out his case, and that his action should have been dismissed In arriving at this conclusion, due weight was given to the findings of fact of the trial Judge, and his view as to the credibility of the parties was accepted; if it were not for the documentary evidence and the circumstances which led to the conclusion that the plaintiff's testimony could not safely be accepted, the judgment must have been affirmed, at all events as to some of the transactions in question.

GARROW, MAGEE, and HODGINS, JJ.A., concurred.

MACLAREN, J.A., also concurred, but grudgingly. He thought the evidence unsatisfactory, and would have preferred to have had further evidence on some points.

Appeal allowed without costs and action dismissed without costs.

FIRST DIVISIONAL COURT. MARCH 21ST, 1916.

McLAUGHLIN v. MALLORY.

Vendor and Purchaser—Agreement for Sale of Land—Action by Purchaser for Specific Performance—Discretion—Advantage Taken of Vendor—Agreement to Rescind—Failure to Establish—Laches—Inability of Vendor to Convey—Evidence—Final Order of Foreclosure in Former Action—Conveyance of Land by Mortgagee—Parties.

Appeal by the defendant from the judgment of MASTEN, J., 9 O.W.N. 325.

The appeal was heard by MEREDITH, C.J.O., MACLAREN, MAGEE, and HODGINS, JJ.A.