

TOWNSHEND, C.J.:—The learned Judge below was right in rejecting all oral evidence offered for the purpose of explaining the meaning attached by one of the parties to the written contract. There is no ambiguity in its terms, although I construe the language used as wholly opposed to the view of the Court below. The whole question is whether the plaintiff was to be paid a commission on the sale of defendant's farm after it had been registered, in any event, that is to say, whether sold for him by the plaintiff or by the defendant himself without the plaintiff's assistance. The sale was in fact made by the defendant himself without any interposition on the part of plaintiff. The contract is very shrewdly and carefully drawn, and it appears to me so drawn as to meet just the defence now set up.

By the first clause defendant requests plaintiff to register the property mentioned in his real estate register and authorises him to sell it at a fixed price, and further to advertise it for sale, but without cost to him, except such as is covered by commission in case of a sale. It then proceeds as follows:—

“In consideration of said W. D. McCallum registering my said real estate property for sale in his real estate register, I hereby agree to pay him a commission of three per cent. of the price obtained whenever a sale of the property or any part thereof takes place. Such commission to be paid by me whether the said real estate or property is sold, either at the price mentioned above or at such other price that I may hereafter accept for said real estate or property. If, however, property does not sell no commission will be charged.”

Now it seems to me this language means, and can only mean, any sale of the property by whomsoever made. It will be observed that he engages to pay him the commission “whenever a sale of the property, or any part thereof, takes place.” It does not limit the payment to a sale made by plaintiff. If that had been intended, how easy to have added the words “by him,” or equivalent words. We cannot add them, because it is quite unnecessary to do so in order to give a clear meaning. The further words, “said commission to be paid by me whether said real estate or property is sold either at the price mentioned,” carried out and emphasizes the previous sentence. It carefully leaves out any words which would confine the commission only to a sale