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TORONTO, JUNE 27, 1913.

No. 41

APPELLATE DIVISION.

JUNE 14TH, 1913.

SHEARDOWN v. GOOD.

Vendor and Purchaser—Contract for Sale of Land—Dismissal of Action by Assignee of Purchaser for Specific Performance—Repayment of Deposit Paid by Purchaser to Agent of Vendor.

Motion by the plaintiff to vary the judgment of the Court, ante 1344.

The motion was made before MULOCK, C.J.Ex., CLUTE, SUTHERLAND, and LEITCH, JJ.

C. W. Plaxton, for the plaintiff.

L. V. McBrady, K.C., for the defendant.

THE COURT referred the motion to SUTHERLAND, J., in Chambers.

SUTHERLAND, J. (after hearing counsel):—Upon a careful consideration of the matter, I am unable to see that the judgment should contain any direction to the effect that the \$100 paid to the real estate agent, by the purchaser, should be repaid by the defendant to the plaintiff. I have spoken to the other members of the Court, who agree also in this disposition of the matter, and of the costs as already made.

Motion refused.