

EISENSTEIN v. LICHMAN—MIDDLETON, J.—FEB. 11.

Vendor and Purchaser—Agreement for Sale of Land—Binding Offer—Affirmance by Purchaser—Specific Performance—Reference as to Title.]—Vendor's action for specific performance of an agreement for the sale of land. MIDDLETON, J., said that the document in question was signed with the intention of making it a binding offer, and that there was no foundation for the defence set up. After the defendant consulted his solicitor, his conduct was consistent only with an affirmance of the transaction. The plaintiff was ready to close on the day named for closing—the defendant was not. In view of the way the matter was carried on between the solicitors, the failure to meet to close on the 5th looked like a trick to avoid the contract. It was as much the defendant's fault as the plaintiff's that a meeting was not arranged for that day. There was some question as to title, which was not ripe for discussion; there should be a reference as to it. Judgment for the plaintiff with costs. W. Proudfoot, K.C., and J. C. McRuer, for the plaintiff. A. Cohen, for the defendant.

BLACKWELL v. SCHEINMAN—MIDDLETON, J.—FEB. 11.

Vendor and Purchaser—Agreement for Sale of Land—Action for Specific Performance—Parties not ad Idem—Terms of Agreement—Mortgage—Dismissal of Action—Costs—Return of Cash Deposit.]—Vendor's action for specific performance of an agreement for the sale of land, tried at Toronto. MIDDLETON, J., said that it was not necessary, in his view, to discuss the question of reforming the agreement and directing specific performance of the agreement as reformed. The real estate agent was too anxious to force the transaction through; and, in truth, the parties never were ad idem. The plaintiff would not undertake the arrangements necessary to increase the first mortgage from \$1,500 to \$2,500. The agent assumed that this could be done without trouble, and the only matter of importance was the expense. The defendant agreed to bear this expense, but did not agree to "raise the mortgage," and she did not authorise the change made in the agreement by which the onus of doing this was placed upon her.—On another ground, the action failed. The parties both assumed that the first mortgage could be "raised" from \$1,500 to \$2,500. The mortgagee refused, and