

ment—Conflict of Evidence—Findings of Fact of Trial Judge.]
 —Action for specific performance of an agreement for the sale of lands by the defendant to the plaintiffs or for damages for breach of contract. The learned Judge gave written reasons for a judgment in favour of the defendant, in the course of which he examined the evidence closely and said that he was satisfied that the defendant never understood that she was making a contract of the character alleged by the plaintiffs, and that the plaintiffs must have realised this at the time. The contract set up by the plaintiffs was an unconscionable one. The plaintiffs were shrewd, keen, educated men. The defendant was an aged, hysterical woman, living alone. It was shewn that she did not understand the language of the agreement; that material provisions were omitted from the written document which she signed; and that she was nervous and frightened and was intimidated and threatened. Upon the facts alone, without reference to the Statute of Frauds, the parties never agreed to the same thing, and there was no contract. The evidence, also, warranted the conclusion that the defendant was not fairly dealt with; she never had a chance to understand, deliberate, or protect herself; the so-called agreement was practically wrung from her; and the plaintiffs, as medical men, were peculiarly fitted to appreciate the unfitness of a nervous, excited, worried, and hysterical woman. There had been no ratification or adoption of the agreement. The learned Judge also finds that important terms of the agreement were omitted from the writing, and holds that it does not satisfy the Statute of Frauds. The result is, that the writing as it stands cannot be enforced, because it does not contain the actual agreement between the parties. It cannot be reformed and enforced, because of the conflict of evidence; and, upon the weight of evidence, it cannot be reformed so as to support the plaintiffs' claim. Action dismissed with costs. G. F. Henderson, K.C., for the plaintiffs. M. J. Gorman, K.C., for the defendant.

HELFAND v. SLATKIN—BRITTON, J.—JULY 6.

Building Contract—Breach—Termination of Contract—Damages—Removal of Material on Ground—Counterclaim—Costs.]
 —Action to compel the defendant to remove certain building materials from the plaintiffs' land fronting on St. Clair avenue, in the city of Toronto, and for damages for breach of the defendant's contract for the erection of buildings. The learned Judge