

The agreement for sale (exhibit 1) contains the usual clause: "It is hereby expressly agreed that the said parties of the first part are not to be bound to furnish any abstract of title, or produce any title-deeds or other evidence not in their possession or control, or to give copies of any title-deeds, but that the party of the second part is to search the title at his own expense; and if said parties of the first part, without any default on their part, are unable to make a good title to the said land within 30 days from the date hereof (if the party of the second part declines to take such title as they are so able to make), then he may withdraw from this contract on the repayment to him of any sum of money paid on account of his purchase-money, and without being entitled to any compensation or expenses in connection herewith."

The contract is dated the 10th April, 1912, the deed the 7th May (registered the 11th July), 1913. This action is brought on the 1st June, 1914.

There was abundant time for the plaintiff to have had a survey made before completing the transaction. There is no contract for compensation, and the plaintiff is not now entitled to it: *Clayton v. Leech* (1889), 41 Ch. D. 103.

The present case is not a case of fraud or of misrepresentation amounting to fraud: *Debenham v. Sawbridge*, [1901] 2 Ch. 98, at p. 108; *Follis v. Porter* (1865), 11 Gr. 442; *Carroll v. Provincial Natural Gas and Fuel Co. of Ontario* (1896), 26 S.C.R. 181; *Fry on Specific Performance*, 4th ed., para. 1280 et seq.

The defendant Bessey is willing to convey to the plaintiff some 3 acres of surplusage on a proper survey and tender of a deed.

The action is dismissed with costs.

MIDDLETON, J.

JANUARY 19TH, 1915.

RE LINDEN AND CITY OF TORONTO.

Costs—Expropriation Proceedings under Municipal Act—Distribution of Compensation Moneys—Payment into Court—Contestation as to Rival Claims—Discretion of Court—Obligation of Expropriating Body.

Motion by the claimant Bastedo for an order on further directions after the report of the Master in Ordinary upon a refer-