

KING'S BENCH.

Mathers, J.]

NICHOLSON v. PETERSON.

[July 7.

Fraudulent representation—Sale of land—Rescission of contract.

Action to set aside a sale and transfer of land from the plaintiff to the defendant Roger and by him to the defendants Peterson on the ground of fraud. The defendant Peterson wished to acquire the land in question, which adjoined their foundry and machine shops, and, knowing that the plaintiff would not sell to them, because they would be likely to make such use of the land as would be detrimental to the remaining adjoining property of the plaintiff, employed the defendant Roger to buy, if possible. Roger then entered into negotiations with the plaintiff for the purchase in his own name. When the plaintiff inquired if he was buying for the Petersons, Roger denied it and declared he would not sell to them in any event. Plaintiff asked Roger to formally restrict himself from selling to the Petersons, but Roger refused to buy subject to any restrictions. Plaintiff believed Roger's statement that he wanted the land to build houses on for himself, and closed the sale to Roger, who immediately conveyed the land to the Petersons.

Held, that, if Roger's statements had been true, there was nothing to prevent him from changing his mind the next day and selling to the Petersons, and therefore the false representations he made were not material to the contract, nor did any damage result to the plaintiff as the immediate and direct consequence of the representations, and that the action must be dismissed, but without costs. *Bell v. Macklin*, 15 S.C.R. 576, followed.

A. J. Andrews and Burbidge, for plaintiff. Anderson, for Roger. Pitblado, for Petersons.

Book Reviews.

Real Property. An introductory explanation of the law relating to land, by ALFRED F. TOPHAM, LL.B., with test questions for the use of students by F. PORTER FAUCETT, B.A. London: Butterworth & Co., Bell Yard, Law Publishers.

This is a book for students, covering in outline the whole ground of real property law. It will be exceedingly helpful to