

a jury at Toronto. KELLY, J., in a written judgment, said that, if the plaintiff was to succeed, there should be the clearest evidence of a certain and definite contract deliberately made by the deceased: *Walker v. Boughner* (1889), 18 O.R. 448, at p. 454. The plaintiff's allegation that the improvements he now sought compensation for were made at the request of his father was negatived by evidence which the learned Judge was compelled to accept. Upon the whole claim, in respect of any obligation of the deceased, the plaintiff failed. The plaintiff sought to charge the defendants, the executors, with work done and material supplied since the decease of their testator, but there was nothing to shew that they were liable therefor. Action dismissed with costs. T. N. Phelan, for the plaintiff. M. K. Cowan, K.C., for the defendants.

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LEES V. MORGAN—LENNOX, J.—DEC. 6.

*Trustee — Account — Release — Sale of Properties of Trust Estate—Interest—Costs.*]—An action against a trustee for an account, tried without a jury at Hamilton. LENNOX, J., in a written judgment, said that, without deciding that the release, or document referred to as a release, executed by the plaintiff and his mother on the 6th October, 1899, was binding to all intents and purposes, he was of opinion that there was not enough shewn to justify him or the Local Master at London, to whom certain questions were referred, in ignoring the amount (\$18,106.41) acknowledged and stated by that instrument as being properly accounted for by the defendant. The Master reported that there were some small properties of the estate yet to be disposed of. Nothing was shewn to satisfy the learned Judge that the defendant was not legally compellable to execute completely the trusts he undertook; but this was not insisted upon; and the rights of the parties could be secured in another way. The plaintiff shall proceed, in a way involving no unnecessary expense, to procure offers for the purchase of these properties, at the prices already ascertained by the Master as reasonable, or at about these prices or at higher prices if they can be obtained; and the defendant and the plaintiff and other necessary parties, if any, if they can be procured to do so, shall join in the conveyances, with liberty reserved to the plaintiff or defendant to apply to the Court for a further order if any difficulty should arise. Exclusive of these properties, the total amount to be accounted for by the defendant to the plaintiff is \$21,543.02, and he has accounted for \$20,606.41.