

HON. MR. JUSTICE BRITTON.

MAY 28TH, 1914.

DANNANGELO v. MAZZA ET AL.

6 O. W. N. 396.

*Vendor and Purchaser—Agreement for Sale of Land—Rectification of Oral Agreement.*

BRITTON, J., dismissed action to reform written contract for purchase of land in accordance with alleged oral agreement, without forfeiture of any money paid under agreement; defendants not to proceed to seize or sell for interest, rent, or principal in default until after one month, and not then if meanwhile plaintiff pays all arrears.

*Clarke v. Joseline*, 16 O. R. 78, followed.

Action for reformation of a written contract for sale of certain land, for an injunction and other relief, tried at Hamilton without a jury.

M. Malone, for plaintiff.

W. S. McBrayne, for defendant.

HON. MR. JUSTICE BRITTON:—In November, 1912, the plaintiff entered into an agreement with the defendants for the purchase of parts of lots 3 and 4, being part of block 33, in the subdivision by Sir Allan McNab, in the city of Hamilton. The plaintiff alleges that this agreement was that he should purchase this land and pay for it as set out in the written instrument produced, except that, in case the plaintiff was out of work, or was sick, and unable to work at the time any of the instalments fell due, then the time for the payment of such instalment should be extended and the same should not really fall due until the date when the next current instalment would become due and payable, and that the plaintiff should have the privilege of paying both of the said instalments at the latter date. The plaintiff and defendants are foreigners, and no one of them speaks the English language; but the son of the defendant speaks both languages, and it was left to him to interpret the agreement which upon the son's instruction, was prepared by defendants' solicitors. The plaintiff states that when the agreement was read to him in his own language, it purported to be, and was so read and interpreted to be, in strict accordance with the verbal agreement entered into. The