

(3 lots) for the chattels in question (cattle and motor car etc.) Immediately after the action was begun, the plaintiff obtained a replevin order and replevied part of the chattels. The action was tried without a jury at Berlin. CLUTE, J., was of the opinion that the action was premature, inasmuch as, when it was begun, the plaintiff was not in a position to demand the chattels, the agreement on his part not having been fully carried out. However, the facts were all established by the evidence, and the plaintiff was permitted to amend and turn his action into one for specific performance of the agreement for exchange; and judgment was pronounced declaring that the agreement provided for an exchange of the plaintiff's lots, 3, 12, and 14, for the defendant's chattels; that the defendant was entitled to a conveyance of the three lots free of incumbrance; that the plaintiff was entitled to the possession of the chattels upon delivering a deed of the lots to the defendant, and to an injunction restraining the defendant from selling the chattels; that the taking possession of the chattels by the plaintiff was illegal, but that the defendant suffered only nominal damage by reason thereof; and that there should be no costs to either party. R. S. Robertson and J. A. Scellen, for the plaintiff. D. Inglis Grant and A. L. Bitzer, for the defendant.

UNION BANK OF CANADA V. MAKEPEACE—MIDDLETON, J.—
Nov. 20.

Guaranty—Action on—Defence—Fraud—Evidence — Finding of Fact of Trial Judge.]—Action upon a guaranty signed by the defendant. The defence was, that the defendant, an old woman, did not understand that the paper which she signed imposed upon her any pecuniary liability. The action was tried without a jury at Hamilton. The learned Judge said that the manager of the plaintiff bank, against whom the fraud charged must be found if at all, impressed him (the Judge) favourably when examined as a witness; and, although he (the Judge) was inclined to view the defendant's position with sympathy, he could not bring himself to find that there was any fraud or misrepresentation or misconduct of any kind on his part when the guaranty was obtained. Judgment for the plaintiff bank for the amount claimed, with interest and costs. B. Holford Ardagh, for the plaintiff bank. W. S. MacBrayne, for the defendant.