

G. S. Gibbons, for the plaintiff.

T. G. Meredith, K.C., for the defendant.

RIDDELL, J.:—The plaintiff was an agent for the sale of certain goods; the defendant is an inventor. The defendant had invented a carpet sweeper, and employed the plaintiff to sell the patent rights, even before the patent actually issued. The plaintiff took a good deal of trouble in the matter, and at length by the advice of one Waggoner in Hamilton he had the arrangement put into writing as follows:—

“London, Ont., July 21st, 1908.

Mr. George B. Deacon,
47 Stanley Street,
London, Ontario.

DEAR SIR:—With regard to our conversation concerning the selling of your patent right for Great Britain, Canada, and the United States of America, I am willing to accept twenty-five per cent. of the proceeds received for the sale or sales of said patent rights for carpet sweeper.

It being understood that no other agent will have any power to act in this matter without my instructions while I am acting in your behalf.

I am, Sir,

Yours truly,

(Sgd.) Wm. Wilson.

I agree to the above mentioned condition.

(Sgd.) Geo. B. Deacon.”

I accept the plaintiff's evidence throughout, and am of opinion that there was no intention that this agency should be just for the particular occasion. The animus shewn by Edmunds was manifest, and neither his recollection, nor that of the defendant, is to be relied upon where opposed to that of the plaintiff.

Subsequently, and within a short time of the agreement just mentioned the defendant effected a sale to Herson for \$5,500 (if indeed the sale was not actually brought about by Waggoner). I think that the defendant acted as he did with the intention and design *mala fide* of preventing the plaintiff from making a commission.

The contract reads that the plaintiff shall receive 25 per cent.