

town of Barrie, upon which was a small house, in which plaintiff, with his wife and their unmarried children, has lived ever since. In 1871 he had 4 daughters and 3 sons, the youngest being the defendant, who was born in 1867, and has the same name as the plaintiff, George Christopher Bishop. The plaintiff asserts that from the first he had an agreement with Cundle for the purchase of the property for \$500. Whether that be so or not, he had not been able to pay anything on the principal, at all events, of the purchase money, up till September, 1890, and any moneys paid by him had been received by Cundle as rent, at the rate of \$36 per annum or \$3 per month, as shewn by the receipts. It may be that Cundle, who is said to have been a careful man, although agreeing to sell, would only treat plaintiff as tenant, and thus have power of distraining until something was paid on the purchase money. But, although not paying more than the rent, plaintiff had made improvements by addition to the house, fencing, etc. He and Cundle had occasional dealings with each other—buying and trading colts, hay, pasture, etc. On 18th September, 1890, plaintiff paid a sum of money to Cundle, who gave a receipt in full of rent and all accounts to date. On 22nd September, 1890, an agreement under seal was entered into between Thomas Cundle and George C. Bishop, described as a labourer and an unmarried man, for the sale of the property to the latter for \$500, payable by instalments with interest at 6 per cent. yearly.

On the date of and after this agreement the following payments were made: 22nd September, 1890, \$100; 27th October, 1891, \$50; 6th November, 1891, \$54; 2nd August, 1892, \$100; 18th September, 1893, \$12; then 6 payments of \$14.40 each for interest in the autumn of each of the years 1894, 1895, 1896, 1897, 1898, and 1899; and then on 30th September, 1899, \$100, and on 23rd January, 1900, \$142.80.

This was the final payment, and thereafter a deed bearing date 23rd January, 1900, was made by the executor of Thomas Cundle to George C. Bishop, therein described as a mechanic.

In March, 1900, a mortgage of the land was made by defendant, as George C. Bishop, to Mrs. Spry, securing repayment of \$150 lent to him and interest.

This action was brought on 10th October, 1905, plaintiff in his statement of claim alleging that he was the