

KELLY, J.

APRIL 7TH, 1920.

RE PETERS AND WADDINGTON

Vendor and Purchaser—Agreement for Sale of Land—Objection to Title—Sale and Conveyance of Lots Shewn on Plan of Subdivision—Building Restrictions—Covenants—Release—Sufficiency—Failure to Establish Requisites of Building Scheme.

Application by a vendor of land for an order, under the Vendors and Purchasers Act, declaring that an objection to the title raised by the purchaser was invalid.

The motion was heard in the Weekly Court, Toronto.

H. E. McKittrick, for the vendor.

J. L. Cohen, for the purchaser.

KELLY, J., in a written judgment, said that in November, 1910, Louisa Standish, being possessed of a parcel of land, subdivided it into 17 lots, and registered a plan of the subdivision; on the 5th April, 1911, she conveyed two of these lots—Nos. 16 and 17—to Robinson, a predecessor in title of the present vendor, the purchaser covenanting therein, for himself, his heirs, executors, administrators, and assigns, to observe certain building restrictions with regard to the property so conveyed to him; at the time of the conveyance to Robinson other lots on the same plan had been conveyed to other purchasers with similar restrictive covenants; after that conveyance Louisa Standish conveyed the remaining lots on the plan to still other purchasers, the conveyances to whom contained similar covenants; and in May, 1914, she released lot 17, of which the land now in question forms a part, from the operation of the restrictive covenants contained in her conveyance to Robinson.

The purchaser upon this application questioned the sufficiency of that release as a discharge of the lands from the covenants imposed by the deed to Robinson.

The learned Judge said that the material completely failed to establish the requisites of a building scheme; there was not any evidence of definite reciprocal rights and obligations extending over the lands subdivided by the plan, or to any other of the lots comprised in it, except those described in the conveyance itself; and there was nothing before the Court from which such a scheme could be inferred, or to shew that purchasers of other lots were aware of the existence of these covenants in the conveyance to Robinson or obtained an assignment thereof as part of their purchases.