

MAY 29TH, 1913.

SCOBIE v. WALLACE.

Fraud and Misrepresentation—Agreement for Purchase of Land—Misrepresentations by Agent of Vendor—Complicity of Vendor—Cancellation of Agreement—Return of Money Paid—Findings of Trial Judge—Appeal—Evidence.

Appeal by the defendant from the judgment of LENNOX, J., ante 881.

The appeal was heard by MULLOCK, C.J.Ex., CLUTE, RIDDELL, SUTHERLAND, and LEITCH, JJ.

G. F. Henderson, K.C., for the appellant.

A. E. Fripp, K.C., for the plaintiff.

The judgment of the Court was delivered by CLUTE, J.:—The action is brought to cancel an agreement dated the 24th July, 1912, between the defendant, a real estate agent of Ottawa, and the plaintiff, a farmer, whereby the plaintiff agreed to purchase certain lots near the city of Regina, Saskatchewan, for \$3,675, upon which was paid, at the time of signing the agreement, \$1,225; the balance payable in six and twelve months.

The trial Judge finds that the plaintiff was induced to sign the agreement in question by representations and statements made to him by the defendant's agent, Michael Bergin: (a) that the lots he was purchasing were "inside lots in the city of Regina;" (b) that they were within one mile and a half of the city post-office; (c) that the city was actually built up as far out as these lots; (d) that Bergin had recently visited Regina, and could be depended upon to give reliable information; (e) that the plaintiff entered into this agreement relying upon the truth of these representations, as the agent knew; and (f) that they were false and were knowingly and fraudulently made.

The question at issue is purely one of fact. A perusal of the evidence satisfies me that it amply supports the findings of the trial Judge; and there is no reason, so far as I can see, for this Court to interfere.

The appeal should be dismissed with costs.