

Peat v. Chapman, 1750, 1 Ves. Sr. 542; *Ackerman v. Burrows* (1813), 3 V. & B. 54. I can find no evidence to support any claim of plaintiff or defendant Murray, to a share in the profits of the Montreal transaction, unless it was looked upon by all parties as in continuance of a previously existing relation.

Murray says that the conversation in the first instance was about him placing "the money up there," and that the agreement was that Gorman would advance the capital—when the transaction "up there" was completed. I do not see that there was any new arrangement made—Murray did not say anything but left it to Bindon: while all that Bindon says is that he brought it to Gorman's attention and after talking the matter over Gorman made his investment. Bindon, however, tells us that he had advised Gorman in other transactions which realised for him a great deal of money—"supplied brains" as he puts it—and it does not appear that he was a partner or a gainer in these transactions. I am unable to see that the purchase of stock in a joint stock company in Montreal was a continuation of any relationship which may have existed between the parties or any two of them in connection with lands in the west. The judgment so far as it refers to the profits on the Montreal transaction must be set aside.

As to the Brandon transaction, the case is not so clear. The transaction was to be "to invest amounts in the west" "Brandon or elsewhere," "in real estate" (so far, Bindon in direct examination) "invest in real estate in the west" "for Murray to go out to the west and invest in real estate" "investments in the west" "for Murray to go out to the west to make a selection of lands for this new partnership" for Gorman "to put up money if suitable investments were got:" and the final arrangement was to invest \$10,000 in those lands at Brandon, "there was no syndicate formed at the time he agreed to put up the \$10,000 or when he sent the telegram to put up \$10,000" (Bindon on cross-examination.) Murray's account is not materially different.

What happened was that Murray procured an option of certain lands and wrote Bindon. Bindon saw Gorman and Gorman sent a telegram authorising Murray "to invest \$10,000 in real estate." This, I think, meant at the time "invest \$10,000 in real estate, obtaining the fee in the land" in other words, "invest \$10,000 in buying land" not "in buying an interest in land." Had it not been for