

Supreme Court of Canada
Clark v. Hepworth, (1917) 55 S.C.R. 614
Date: 1917-10-09

Clark;

v.

Hepworth

1917: May 9; 1917: October 9.

Present:—Sir Charles Fitzpatrick C.J. and Davies, Idington, Duff and Anglin JJ.

ON APPEAL FROM THE APPELLATE DIVISION OF THE SUPREME COURT OF ALBERTA.

Principal and agent—Sale—Common agency—Concealment.

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APPEAL from the judgment of the Supreme Court of Alberta, Appellate Division,¹ reversing the judgment of Ives J. at the trial², and dismissing the appellant's (plaintiff's) action with costs.

The plaintiff seeks rescission of a contract for the purchase of a farm in the Province of Alberta and claims damages because of alleged misrepresentations by the vendor's agents as to its value and relative situation and because, while professing to act in a confidential relation to the plaintiff, they either actively misrepresented, or at least wilfully and with fraudulent intent concealed their relations with the vendor.

The trial judge found in the plaintiff's favour on the ground of concealment of the agency, granted rescission of the sale and ordered repayment, by the vendor and the firm of real estate agents, of the moneys paid on account of the purchase price. This judgment was reversed by the Appellate Division of the Supreme Court of Alberta and an appeal to the Supreme Court of Canada by the plaintiff was dismissed, Idington J. dissenting.

Appeal dismissed with costs.

Ford K.C. for the appellant.

Hogg K.C. and Ewing for the respondent Mitchener.

Lafleur K.C. and Payne for the respondent Hepworth,

¹ 34 D.L.R. 177.

² 9 W.W.R. 802; 33 W.L.R. 175.