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*Nov. 5.
*Nov. 23.

LAVIN v. GEFFEN.

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

*Partnership—Oral agreement by one partner to buy other's interest—
Land—Statute of frauds—"The Partnership Ordinance," (N.W.T.)
Cons. Ord. [1905] c. 94, s. 24.*

APPEAL from the judgment of the Supreme Court of Alberta, Appellate Division, (1) reversing the judgment of the trial judge, Scott J., who had dismissed the respondent's action and ordering a new trial.

The respondent, plaintiff, and the appellant, defendant, were carrying on business in partnership as farmers, ranchers and general dealers in cattle. The respondent alleged that the appellant orally agreed to buy out the respondent's interest in the partnership on certain terms and sued for the price agreed. The appellant denied this, pleaded the statute of Frauds and counterclaimed for an order dissolving the partnership and for an accounting. Upon the case coming on for trial, the respondent admitted that among the assets of the partnership was a leasehold interest in some real estate. The trial judge then dismissed the respondent's action holding that such an agreement as the one in the present case was within the statute of Frauds and must be in writing. The Appellate Division held that such an oral agreement was not within the statute, where there is nothing in the

*PRESENT:—Sir Louis Davies C.J. and Idington, Duff, Anglin and Mignault JJ.

(1) 15 Alta. L.R. 59; [1919] 3 W.W.R. 498, 584.

partnership agreement to show that "contrary intention" referred to in sec. 24 of "The Partnership Ordinance," which provides that unless such intention appears land which has become partnership property shall be treated as between the partners as personal estate.

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The Supreme Court of Canada, after hearing counsel for both parties, reserved judgment, and, at a subsequent date, dismissed the appeal with costs, Duff J. dissenting.

Appeal dismissed with costs.

A. McL. Sinclair K.C. for the appellant.

J. B. Barron for the respondent.