

1917

May 18.  
June 22.

## CHALMERS v. MACHRAY.

ON APPEAL FROM THE COURT OF APPEAL FOR MANITOBA.

*Sale—Commission—Partial payment of price—Receipt by agent—Parties.*

APPEAL from a decision of the Court of Appeal for Manitoba (1), reversing the judgment at the trial in favour of the plaintiff Chalmers.

One Campbell employed the plaintiff to sell his hotel for \$50,000 retaining for himself any excess over that amount. He sold for \$52,500 and \$22,000 was paid to defendants, solicitors for Campbell, who used it to pay rent due and incumbrances on the property. Plaintiff obtained judgment against Campbell for the \$2,500 due him under the agreement but not being able to collect it he brought action against the defendants alleging that they had notice of his claim before paying out the money. The Court of Appeal held that plaintiff could not maintain this action.

After hearing counsel for both parties the Supreme Court reserved judgment and on a later day dismissed the appeal with costs.

*Appeal dismissed with costs.*

*G. A. Elliott K.C.* for the appellant.

*Tilley K.C.* and *E. K. Williams* for the respondents.