

BUYER PROTECTED IN SALES BY FRAUD

Seller Must Repay Purchase Price if False Representations Are Made.

RULE OF LAW IS STATED

Even if Seller is Ignorant of Misrepresentations by Agent, Sale Must Be Rescinded and Money Repaid, Courts Have Held.

BY W. B. SHIVELY, Chairman Legal Committee of Portland Realty Board.

May the buyer of property compel the seller to rescind a sale thereof and to repay the purchase money on account of misrepresentations of fact made prior to the closing of the sale by the seller's broker or agent, notwithstanding the fact that the representations were made by the agent without the knowledge of his principal, the seller?

The general rule relative to this question may be stated thus: The seller may be compelled by the buyer through the courts to rescind the sale and repay the purchase money where the seller's agent, even without the knowledge or consent of his principal, in order to bring about the sale, makes false representations to the buyer, and the seller, being ignorant of the facts, and if the representations are made within the scope of the agent's authority and if the buyer believes the representations to be true, is injured by their falsity, and thereby suffers damage, the owner cannot take advantage of or profit by the contract made for him by the broker without becoming responsible for the representations which induced it.

In the case of Wilson vs. McCarthy, 66 Or. 493, 134 Pac. 1189, the facts were that a Mrs. Rogers owned 80 acres of land in Washington practically barren of timber, steep, lying in places at an angle of 60 degrees, rocky, rough and with only two acres cleared. There was a one-room cabin on the land. One McCarthy was Mrs. Rogers' broker to sell the land and in order to effect a sale McCarthy represented to the buyer that the land was practically covered with good merchantable timber, that eight to 10 acres of the property were cleared, that the land was practically level, and all of it was in places of cultivation and that there was a cozy three or four-room house on the premises.

Buyer Brings Suit. The buyer did not go to see the land, but relied on the agent's representations. The sale was closed, after which the buyer discovered the true character of the property he had purchased. She then brought suit to rescind the sale. The seller contended that she personally had made no representations of any kind to the buyer, and that therefore the sale should be upheld. The Supreme Court of Oregon said:

"If the contract was made by McCarthy, who, in order to induce plaintiff to make the exchange, made representations which the authority of the representations, whether McCarthy was her appointed agent or not, whether by appointment or by self-constituted agent, is bound by the representations made and the methods employed by the agent to effect a contract. Defendant McCarthy cannot ratify a part of the transaction negotiated by McCarthy and repudiate the same in part."

In the case of Owen vs. Jones, 68 Or. 311, 136 Pac. 352, numerous representations were made by an agent of the seller to the buyer, and the court held to the effect that the agent is bound by the representations made and the methods employed by her agent to effect a contract.

In the case of Copeland vs. Tweedie, 61 Or. 302, 122 Pac. 302, the seller's broker, unknown to the seller and without authority, represented to the buyer that the property was worth \$400,000 of value of merchantable timber. After the sale based on this representation it was discovered that the land contained less than half the quantity represented.

In deciding the case the Supreme Court said: "It is beyond dispute that this representation was made while Corcoran (the broker) was empowered by the defendant, Ellen Tweedie, to procure a purchaser for the land in question. It was within the scope of his authority to describe the land to an intending purchaser and to state what it contained in the way of improvements or timber or the like. Without making such representation it would be impracticable to procure a purchaser. It affects the defendant, Ellen, the same as if she was there personally present and made it herself."

Apartment-House for Salem. SALEM, Or., Oct. 5.—(Special).—C. W. Nienmeyer, of Salem, is exhibiting plans for a \$250,000 apartment-house which is proposed to be constructed through local capital on Court street, near the State House. Federal orders have placed the possibility of construction out of the running just at present, but he says the plan will go ahead as soon as war conditions permit.

Almond Crop Good One. GOODNOPE HILLS, Wash., Oct. 5.—(Special).—Many Portland people and others are in the hills gathering their almonds, of which there is quite a crop this year. Among the orchard owners are L. Hewes, J. C. George, D. M. Smith, Jesse Hobson, Mr. McNary, Mr. Myers and L. C. Stone, all of Portland, except Mr. George, who resides at Waukegan, Wis.

Locust Eggs Treated with Sulphuric Acid and Lime are used as fertilizer in Mediterranean countries where the insects are numerous.

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CAMPAIGN IS BEGUN Interstate Realty Association After New Members. 1000 MEMBERS DESIRED. O. H. Skothelm, Formerly of Eugene, to Manage Oregon Part of Drive in Northwestern States and Also British Columbia.

The Interstate Realty Association of the Pacific Northwest, British Columbia and Alberta has started a membership campaign, the goal of which is 1000 new members by January 1. F. E. Taylor, of Portland, former president of the association, is chairman of the membership committee, which has in hand plans for the campaign. The purpose of the campaign is to strengthen the association and make of it a great body of thoroughly reliable, patriotic and efficient real estate men.

Paul C. Murphy, president of the Portland Realty Board, and Paul A. Cowgill, secretary, declare that the Portland territory will bring in at least 100 new membership applications. The campaign will be in personal charge of O. H. Skothelm, former Eugene real estate man, who has removed to Portland with office in the Henry building. "The purpose of the campaign," said Paul C. Murphy, president of the Portland Realty Board, "is to wipe out unscrupulous real estate operators and make legitimate methods impossible by organizing a great body of high-standard, patriotic and efficient men. By a concerted movement, covering the Northwestern states and the two Canadian provinces of Alberta and British Columbia, the Interstate Realty Association is offering its services to maintain the highest standards of real estate operations, to prevent investments in any but legitimate projects, and to seek legislation to protect the public."

The Interstate Realty Association consists of individual members, which is closely co-operative, made up of local real estate boards. It is the aim of the Interstate Association not alone to protect the interests of its members, but to become the largest individual organization of real estate men in the world. The present membership drive with 1000 new members added to the present membership will enable the organization, from the small membership fee of \$5, to maintain adequate headquarters, necessary mailing facilities and the issuing of monthly bulletins. Bankers and abstractors in the Coast states are appreciating the value of their close co-operation with the realty profession.

Memberships in the association stand for protection and responsible dealing. The public realizes the inestimable value of such an ethical force in the maintenance of high business standards, and it is recognized that the place of the individual dealer is within, and not outside, the organization. 28-Acre Ranch Brings \$10,000. ABERDEEN, Wash., Oct. 5.—(Special).—T. T. Jones, of Sequim, has purchased the A. G. Harris ranch of 28 acres, south of Montesano, for \$10,000 cash. This is the largest realty deal in the county for many months.

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THESE ITEMS ON SALE MONDAY AND TUESDAY ONLY AT THESE PRICES A Remarkable Sale of Children's Winter Coats, Special \$4.95 Each. This unusual value is made of medium weight corduroy and fancy mixtures. Without a doubt these values are beyond compare. Sizes 2 to 6 years. Astonishing Value in Women's Serge Dresses, Each \$9.98. These Dresses are remarkable for quality and workmanship, fine fitting, nicely tailored. Colors blue, black, etc. Collars and cuffs in white silk poplin, sizes 10 to 14. Ladies' Coats are made of the best quality, each serviceable will surely find something to their liking among these excellent garments. Sensational Sale of Women's Silk Poplin Dresses, Each \$10. Some fifty models with pleated skirts. Surplice Waists, collars and cuffs of white satin, belts of material with large buckles; others with plain skirts and tab-trimmed waists. Colors green, taupe, light blue, navy, brown, black, BURGUNDY. These are beautiful dresses for afternoon, street or evening wear. Hotels, Rooming-Houses, Housekeepers, Attention! Get a Full Supply of These High-Grade Bedspreads!

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SHOW DATES ANNOUNCED. COMING LIVESTOCK EXHIBIT TO BE NOVEMBER 18 TO 21. North Pacific International Display Promises to Be Up to Other Year Standards.

SALEM, Or., Oct. 5.—(Special).—A. H. Lea, who will be general manager of the North Pacific International Livestock Show at Portland this year, today announced tentative dates for the show, November 18 to 21, inclusive, subject to ratification at a meeting to be held in H. L. Corbett's office in Portland Monday. Among the matters to be decided at the meeting will be the question of holding the show at the stockyards or in some downtown location. The premium lists and classifications also will be arranged and general plans for the exposition worked out. Mr. Lea says the showing of stock at the State Fair indicates that war conditions will not interfere with the Portland show, which he expects will be up to the standard of past years.

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