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*Oct. 24.
*Nov. 10.

BARK-FONG, CHUCK-SING AND LOW NOI WING-ON (PLAINTIFFS) ..... APPELLANTS;

AND

THOMAS COOPER (DEFENDANT) ..... RESPONDENT.

ON APPEAL FROM THE COURT OF APPEAL FOR BRITISH COLUMBIA.

Sale of land—Contract—Defeasance—"Time to be of the essence of the agreement" — Deferred payments — Notice after default — Laches—Abandonment—Specific performance.

In an agreement for the sale of lands, for a price of which half was paid and the balance to be paid by deferred instalments at specified dates, there was a clause for forfeiture, both of the agreement and the payments made, upon default in punctual payments; time was of the essence of the contract and, on default, the vendor had the right to give the purchasers thirty days' notice in writing demanding payment; in case of continuing default, at the expiration of that time, forfeiture would become effective and the vendor might retake possession and re-sell the lands. On default in payment as provided, a notice was given in the terms mentioned, but only to one of the purchasers, an extension of time was applied for and refused and, after thirty days from the time of the notice the vendor re-entered. Five days later the purchasers tendered the balance unpaid, which was refused by the vendor on the grounds that no conveyance was tendered for execution and that the purchasers had abandoned the agreement. Two weeks later the purchasers sued for specific performance.

Held, reversing the judgment appealed from (18 B.C. Rep. 271), that the clause making time of the essence of the contract had reference not to the gale dates, but to the time mentioned in the notice; that the notice as given did not comply with the condition of the agreement requiring notice to all of the purchasers, and that, in the circumstances of the case, there were not such laches chargeable against the purchasers as would amount to abandonment of their rights under the agreement or deprive them of their remedy of specific performance.

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*PRESENT:—Sir Charles Fitzpatrick C.J. and Davies, Idington, Duff, Anglin and Brodeur JJ.

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APPEAL from the judgment of the Court of Appeal for British Columbia (1), dismissing an appeal from the judgment of Gregory J., at the trial, by which the plaintiffs' action was dismissed with costs.

By agreement for sale and purchase, dated the 6th day of December, 1910, the defendant (respondent) agreed to sell and the plaintiffs (appellants) agreed to purchase certain lands in the City of Victoria for $1,600 of which $800 was paid in cash, and the balance was payable in two equal instalments of $400 each on the 6th day of June, 1911, and the 6th day of December, 1911. Neither of these payments was made on the due date, and on the 27th of March, 1912, the defendant sent a notice demanding payment and purporting to cancel the agreement of sale, and to forfeit the moneys paid should the default continue after the expiration of thirty days from the date of the notice. This notice was alleged to be given in accordance with the clause in the agreement providing for such cancellation and forfeiture, and setting out that the notice might be well and sufficiently given if "mailed at Victoria, B.C., Post Office, under registered cover addressed as follows," * * * but the blank space in the printed form was not filled in. A few days later, the plaintiff asked defendant for an extension of time, but this was refused, and on 10th May, 1912 the defendant entered into possession of the lands. On the 15th May, 1912, the plaintiffs offered the defendant the sum of $900, but no conveyance was tendered therewith for execution. The defendant refused to receive this sum on the grounds stated in the head-note.

The learned trial judge held that the notice of cancellation was sufficiently given, and that the plain-

(1) 18 B.C. Rep. 271.

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tiffs had practically abandoned their purchase and were not in any case entitled to specific performance. The Court of Appeal for British Columbia, in upholding this decision, held further that no sufficient tender was made inasmuch as no conveyance was tendered for execution.

Travers Lewis K.C. for the appellants.
R. A. Pringle K.C. for the respondent.

THE CHIEF JUSTICE.—I agree with Mr. Justice Duff. I would venture merely to add that the clause in the agreement belongs to that class of resolutive conditions known in the civil law as *une clause commissoire*. The difficulty in this case has arisen out of the fact that the agreement has been construed below as containing a resolutive condition pure and simple. The difference between the two with respect to the rights of the parties under the agreement is neatly expressed by Aubry & Rau, vol. 4, page 83 (4 ed.) :—

> En général, et sauf ce qui va être dit sur le pacte commissoire, la condition résolutoire opère de plein droit, dès l'instant où elle se trouve accomplie, sans qu'il soit nécessaire de faire prononcer la *résolution en justice*. Le pacte commissoire est la clause par laquelle les parties conviennent que le contrat sera résolu si l'une ou l'autre d'entre elles ne satisfait point aux obligations qu'il lui impose. Cette clause est toujours sousentendue dans les contrats parfaitement synallagmatiques. A la différence des autres conditions résolutoires, qui opèrent de plein *droit, le pacte commissoire ne produit, en général, son effet qu'en vertu du jugement qui declare la convention résolue. Le juge, saisi de la demande en résolution, n'est pas obligé de la prononcer; il peut accorder au défendeur un delai pour l'exécution de ses engagements.*

DAVIES J.—I think this appeal should be allowed and the decree for specific performance as prayed for granted.

I do not think the notice in case of default in making the payments stipulated for, expressly provided for in the agreement of purchase, was given and there was not, consequently, the continuing default in making the purchase payments which the agreement expressly provided would nullify it and operate as a forfeiture of previous payments.

The only remaining reason advanced for refusing the relief asked for was that the circumstances were not such as justified the court in granting this special relief. I differ from the courts below on this point also and cannot see anything on the facts as proved which should preclude the plaintiffs from obtaining the relief they ask.

One-half of the purchase money was paid at the time of the purchase. The notice called for by the agreement to be served upon the purchasers in the event of their failing punctually to make payment of the balance of the purchase money, and thus evidencing the vendors' determination to avoid the agreement and the rights of the purchasers under it, was not given. The evidence does not shew an intention on the purchasers' part to abandon their rights under the agreement and no evidence was given of any facts which, in my judgment, ought to deprive the complainants of the special relief prayed for.

IDINGTON J.—The term of this contract making time of the essence thereof is so coupled with a specific mode of enforcing it, as to form a necessary part thereof. This specification though somewhat imperfect may be so construed as to give it some effect, but any such possible construction has not been so fol-

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lowed by the steps taken as to be in conformity therewith. The contract must, therefore, be looked at as an ordinary contract of sale and purchase, destitute of any provision relative to time being of the essence of the contract.

So treated the mere default for a few months (where not a mere deposit but half the purchase money had been already paid), in payment of the two instalments to be made later does not constitute sufficient ground for refusing specific performance.

No case has been cited to us, and I venture to think none can be found, resting merely upon the like default, as in law depriving a vendee, under such circumstances, of his right to specific performance in face of his tender of the balance due.

The appeal should be allowed with costs throughout.

DUFF J.—This is an appeal from a judgment of the Court of Appeal for British Columbia dismissing an appeal from the judgment of Mr. Justice Gregory, who dismissed the appellants' action for specific performance of an agreement for the sale of land made between the respondent and the appellants on the 10th of December, 1910. The purchase price was $1,600 of which $800 was paid at the time of the execution of the agreement, and the residue was to be paid in two equal instalments, one on the 11th of June, 1911, and the other on the 11th of December, in the same year. In February of 1911, the vendees, the appellants, assigned the benefit of this agreement to one Lim Bang, at the price of $2,500, receiving in cash $1,700 at the time of the assignment and an undertaking to pay on the days respectively appointed for the making

of the deferred payments, under the appellants' agreement for purchase. This last agreement contained the clause in the following terms:—

> And it is expressly agreed that time is to be considered the essence of this agreement, and unless the payments above mentioned are punctually made at the time and in the manner above mentioned, and as often as any default shall happen in making such payment, the vendor, his heirs or assigns, may give to the purchasers, their heirs, executors, administrators and assigns, thirty days' notice in writing demanding payment thereof, and in case any such default shall continue, these presents shall at the expiration of any such notice be null and void and of no effect, and the vendor shall be at liberty to re-possess, or re-sell and convey the said lands to any purchaser as if these presents had not been made, and all the moneys paid hereunder shall be absolutely forfeited to the vendor, his heirs, executors, administrators or assigns. The said notice shall be well and sufficiently given if delivered to the purchasers, their heirs, executors, administrators, or assigns, or mailed at Victoria, B.C., Post Office, under registered cover addressed as follows:—

The appellants having made default in meeting the deferred payments provided for in their agreement, on the 26th of March, 1912, the respondent caused a notice to be sent by registered letter addressed to the appellants demanding payment of the overdue instalment and stating that in default of payment within thirty days from the date of the notice the agreement would be null and void and all moneys already paid thereunder forfeited. The appellant, Bark-Fong, was then in China. On the 15th of May following, the appellants tendered the amount overdue which the respondent refused to accept. On the 27th of the same month, the appellants sued for specific performance. In the statement of defence the respondent set up the appellants' default, the forfeiture clause in the agreement as quoted above, the notice of the 26th March, 1912, and, further, alleged that the respondent, on the 10th of May, 1912, "took re-possession of

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the lands in question" and had been in possession ever since. At the trial the respondent was given leave to add a further defence to the effect that the appellants by their neglect to make the deferred payments had "abandoned and repudiated the said agreement."

The learned trial judge dismissed the action. He held first that notice had been sufficiently given under the forfeiture clause above set out and, by implication, that the appellants' rights had thereby terminated. He also held that the default in respect of the deferred payments disentitled them to specific performance. In the Court of Appeal, Irving and Martin JJ. agreed with the learned trial judge on this latter ground. Mr. Justice Galliher appears to have taken the view that the appellants were not entitled to succeed owing to the absence of a proper tender of the purchase money or of a conveyance.

I am unable to agree with the view of this case which has been taken in the courts below. I think the steps taken by the respondent with a view to terminate the agreement under the forfeiture clause were not effectual for that purpose; and that if they had been effectual the appellants would be entitled to relief against forfeiture. I think there is no ground for the suggestion that the respondent did exercise or intend to exercise any right that he may have had to terminate the agreement (on the ground that the appellants' conduct constituted a repudiation of their obligations under it) except the right given him by the forfeiture clause. I have also come to the conclusion that the appellants' conduct was not such as to disentitle them to specific performance.

That the contract was not terminated by the con-

duct of the parties amounting to mutual abandonment of the contract, as Cotton L.J. called it, in *Mills* v. *Haywood*(1), at page 202, is very clear. Assuming that the appellants' default was such conduct as would have entitled the respondent to say to them "you, by your conduct have declared your intention of not carrying out the contract and I shall treat the contract, therefore, as rescinded," it is quite plain that that is not the course the respondent took. On the contrary he says that on several occasions prior to the giving of the notice in March, 1912, he requested the appellants to fulfil their agreement. The notice itself recognizes the agreement as a subsisting contract and demands performance of it. The appellant, no doubt, by that notice does declare his intention to terminate the contract, but to terminate it, not as in exercise of any rights he might have had under the general law, but only in exercise of his rights under the forfeiture clause. He declares his intention to forfeit the moneys already paid. If he had terminated the contract under the general law it is questionable whether he could have retained those moneys. The law upon this point is perhaps not quite settled, but the respondent's notice makes it quite clear that he intended to run no risk of being obliged to refund the moneys he had received. That the vendor's rights under the forfeiture clause were not effectually exercised seems to me equally clear. The notice of the 26th of March was received by two of the appellants. One method of giving the notice is, according to the terms of the contract delivery to the purchasers; and that, I think, is the only method authorized by the contract. The subsequent clause ("mailed at Vic-

(1) 6 Ch. D. 196.

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toria, B.C.") is obviously incomplete and ought to be disregarded. It was argued that the appellants were engaged as partners in a common adventure and that service of notice on one would consequently be service on all. I do not think it is necessary to consider whether in the circumstances the appellants ought to be held to be partners in the purchase and sale of the property in question. I think it is immaterial. The agreement does not treat them as partners. It is an agreement between Thos. Cooper on the one hand, and three individuals as purchasers on the other, and I entertain no doubt, that the agreement contemplated delivery of the notice to each one of these individuals. But, quite apart from that, assuming notice had been properly given, I am quite clear that the appellants are entitled to relief from the forfeiture. The clause is clearly a penalty clause, that is to say, it is a provision intended to secure punctual payment, and that being so, on general principles of equity the appellants are entitled to relief upon coming into court and offering to perform the obligations of which the clause was intended to secure performance, unless they are precluded from obtaining such relief by some conduct which makes it inequitable that such relief should be granted. If the vendee, relying upon the effect of this clause, had made a sale of the lands or had rented them to a *bonâ fide* purchaser or lessee or in some other way dealt with that property so that it would be impossible to restore the parties to their former positions, then any relief which the court could give might be of only a very limited character. But nothing of the kind has occurred in this case.

The question remains whether the appellants have lost their right by reason of laches. The general prin-

ciple is stated in Fry on Specific Performance, at page 539:—

> The Court of Chancery was at one time inclined to neglect all consideration of time in the specific performance of contracts for sale, not only as an original ingredient in them, but as affecting them by way of laches. But it is now clearly established that the delay of either party in not performing its terms on his part, or in not prosecuting his right to the interference of the court by the institution of an action, or, lastly, in not diligently prosecuting his action, when instituted, may constitute such laches as will disentitle him to the aid of the court, and so amount, for the purpose of specific performance, to an abandonment on his part of the contract.

The delay in commencing the action, that is to say, the lapse of the seventeen days between the 10th of May, when the respondent announced his refusal to carry out the contract, and the 27th May, when the action started, is not important, nor was there any delay in the prosecution of the action. The point which has to be considered is whether the delay of the appellants in the payment of the purchase price disentitled them to specific performance. The doctrine of laches, it has been frequently said, is not a technical doctrine, and in order to constitute a defence there must be such a change of position as would make it inequitable to require the defendant to carry out the contract or the delay must be of such a character as to justify the inference that the plaintiffs intended to abandon their rights under the contract or otherwise to make it unjust to grant specific performance. It cannot be said that anything has occurred which makes it inequitable that the respondent should be called upon to perform his contract; the only change suggested is that the property has risen in value. In the special circumstances of this case I do not see why that should be regarded as a ground for thinking it is unfair that

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the defendant should be held to his contract. Nor do I think that the circumstances in evidence justify the conclusion that the appellants intended to abandon their rights under the contract. The appellants had paid $800 on the purchase price. They had assigned the benefit of their agreement and had made a profit of $900. It may be that two of them were people of no substance but Bark-Fong, at all events, appears to have been a man of means, and the abandonment of their contract without the consent of Lim Bang might have exposed them to a liability to refund the moneys they had received. The delay is not really difficult to explain when one considers the circumstances. They did undoubtedly expect that Lim Bang, the assignee of the agreement, would, in performance of his contract, provide them with funds for making the payments under their own purchase. The appellants were in posesssion of the property which was perfectly good security for the amount due to the vendor; and it was not until March, 1912, when the value of the property was rising, that he began seriously to press for payment. He then gave a notice demanding payment within thirty days. That notice constituted an admission that there was a subsisting contract and an admission, indeed, that until the end of the period mentioned the contract would not be at an end, and I think in the words of Malins V.-C., in *McMurray* v. *Spicer*(1), that this notice excludes all the anterior time in the computation of delay. I do not think that their conduct from that time forward can be imputed to them for laches. They communicated with Bark-Fong, who was in China, who appears to have acted with all reasonable diligence; and I

(1) L.R. 5 Eq. 527, at p. 538.

think, in view of the previous acquiescence of the respondent and of all the circumstances, it would be applying to these appellants an unduly rigorous standard if we should interpret their conduct during this period as demonstrating an intention on their part of not performing the obligations of the agreement or as shewing such a want of diligence as to make it just to withhold the remedy of specific performance.

ANGLIN J.—Under a written agreement the plaintiffs, on the 6th of December, 1910, became purchasers from the defendant of a property in the City of Victoria, for the sum of $1,600, of which one-half was paid in cash, and the balance was made payable with interest at 7%; $400 on the 6th June, 1911, and $400 on the 6th December, 1911. By a special provision in the agreement the vendor reserved the right on any default in payment to rescind the contract and forfeit whatever part of the purchase money had been already paid by giving to the purchasers and their assigns thirty days' notice in writing demanding payment, at the expiration of which, the default continuing, the contract should be null and void and the moneys paid thereunder forfeited. At the outset of the paragraph containing this power time is declared to be "of the essence of this agreement." On the 24th February, 1911, the plaintiffs re-sold the land, receiving from their sub-vendee all his purchase money except $800. This sum he undertook to pay, with interest at 7%, at the dates and in the manner stipulated for in the plaintiffs' agreement with the defendant.

Default was made in payment of the instalment of $400 and interest due in June, 1911. The defendant

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made some oral demands for payment from one of the three purchasers, but it is not clear upon the record whether these demands were made before or after the second instalment fell due. The default continuing and the second instalment also being overdue, the defendant on the 26th of March, 1912, caused to be mailed a notice addressed to the three purchasers demanding payment and purporting to be given under the special provision of the contract above mentioned. This notice was received by one of the purchasers who informed his co-purchaser, who was in Victoria, of its receipt. The third purchaser, who was in China, was then written to by one of his co-purchasers to come back at once. It does not appear that he was informed of the notice. No attempt was made to give notice to the assign or sub-purchaser, although the defendant had been informed of the sub-sale. The purchaser who had received the notice called on the defendant on the 27th of March, and explained the absence of one of the purchasers in China and says he asked for more time to make the payment demanded, which was refused. In his plea the defendant says he re-took possession of the property on the 10th of May, 1912. On the 15th of May one of the purchasers tendered to the defendant in his solicitor's office the sum of $900, which was rejected. The sufficiency of this tender is not objected to except on the ground that it was not accompanied by tender of a conveyance for execution.

This action for specific performance followed. The defendant pleaded default and laches, rescission by notice, and failure to tender a conveyance. By amendment at the trial he added a plea of abandonment of the contract by the plaintiffs. The learned

trial judge found that the notice had been sufficiently given under the special clause providing for rescission and forfeiture and also sustained the plea of abandonment. In appeal Irving J.A. agreed with the trial judge; Martin J.A. thought the notice insufficient, but held the case was not one for specific performance on the authority of *Wallace* v. *Hesslein* (1); Galliher J.A. relied solely on the failure to tender conveyance, expressing no opinion as to the sufficiency of the notice given.

No doubt the intention of the parties when making the agreement was to provide for the giving, by post, of the notice demanding payment. It was also no doubt a mere accident that this provision of the contract was not complete, a material item in it being left blank. Personal service on the three purchasers, and on their assign, was the alternative method provided for giving notice of the demand in writing. The terms upon which a vendor is given such a contractual right of rescission and forfeiture must be strictly observed. *Marriott* v. *Mills* (unreported). Although he had not complied with the terms, the vendor, under the notice thus served on but one purchaser, proceeded to enforce the provision of the contract for rescission and forfeiture. His action, in my opinion, is clearly not justifiable under it.

Failing to establish compliance with the special contractual provision he now attempts to assert some right either to rescind by his own act on the purchasers' default or to have rescission decreed by the court. In his pleading he does not put the case in this way, relying apparently upon the sufficiency of his notice given to only one of the three purchasers, and

(1) 29 Can. S.C.R. 171.

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the continued default, to effect rescission under the special provision of the contract. By that very notice the vendor recognized the agreement as subsisting up to the 26th of April. He did not actually proceed to act upon the footing of rescission until the 10th of May, when he says in his pleading he re-took possession. The purchasers had paid one-half of the purchase money and they made tender of the balance on the 15th of May. Under these circumstances I do not think they had incurred the extreme penalty of forfeiture and rescission; but, if they had, the recent decision of the Judicial Committee in *Kilmer* v. *British Columbia Orchard Lands, Limited*(1), establishes that they are entitled to relief. In that case and in the recent Ontario case of *Boyd* v. *Richards*(2), as in the case now before us, the provision for rescission and forfeiture was in the nature of a condition subsequent or of defeasance — not a condition precedent, as I, at all events, thought the condition dealt with in *Labelle* v. *O'Connor*(3), relied on by counsel for the respondent, was.

It may not be amiss to note in passing that in the judgment in the *Kilmer Case*(1), at page 322, it is said of *Re Dagenham Dock Company*(4), on the authority of which the decision of the Judicial Committee in the *Kilmer Case*(1) proceeds:—

> that was a case like this of forfeiture claimed under the letter of the agreement and a cross-action for specific performance.

A study of the report of the *Dagenham Case*(4), which came up on a motion by way of appeal from a

(1) [1913] A.C. 319.
(2) 29 Ont. L.R. 119.
(3) 15 Ont. L.R. 519.
(4) 8 Ch. App. 1022.

decision of the Master of the Rolls refusing to order delivery up of certain lands to the applicants, who were vendors asserting forfeiture, does not disclose the pendency of any cross-action for specific performance. The right to that relief is not referred to in the judgment. No doubt that case is a very strong authority in favour of the right of the present appellants, under the circumstances in evidence, to relief from the penalty of rescission and forfeiture. But their right to specific performance involves other considerations.

The principal grounds relied upon at bar in support of the defendant's right to have the court decree rescission and forfeiture, and in answer to the plaintiffs' claim for specific performance, were an alleged abandonment by the plaintiffs of their contractual rights, and their laches.

The testimony in my opinion fails to shew anything in the nature of abandonment or any facts from which an intention to abandon can fairly be inferred. The payment of one-half of the purchase money in cash and the provision in the re-sale agreement for payment of the balance by the sub-purchaser at the time and in the amounts called for by the plaintiffs' agreement with the defendant; Wing-On's request for time when the defendant demanded payment; and the tender of the balance of the purchase money and interest on the 15th of May are scarcely consistent with an intention to abandon. In the light of the testimony as to the reasons given for the default, the mere delay in payment, the sole ground averred in this plea, put upon the record only by amendment at the trial, will not support it. In *Wallace* v. *Hesslein*(1), the

(1) 29 Can. S.C.R. 171.

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court, perhaps, took what may appear to be an extreme view of the duty of a purchaser who claims specific performance to shew that he has always been "ready, prompt and eager to complete." But that decision really rested on the ground that the purchaser had abandoned his contract as was evidenced by his declaration made to the vendor that he would be unable to carry it out. In the present case, as already indicated, the circumstances rebut an intention to abandon.

Courts of equity have never formulated a hard and fast rule of universal application that any fixed period of delay in payment of purchase money will afford any insuperable bar to the relief of specific performance. Whether his default disentitles the purchaser to that relief always depends upon the circumstances, and it is a question to be determined in each case, as a matter of judicial discretion, whether under the circumstances the default has been such that it would be unjust and inequitable to enforce the contract specifically.

In the present case it is in the very clause providing for rescission by the vendor upon thirty days' notice to the purchasers, to be given after default, that time is declared to be of the essence of the agreement. It is clear that this stipulation as to time was intended to apply not to mere default in payment at the dates provided in the contract, but only to failure to pay within thirty days after a valid notice, in conformity with the provision for rescission, had been duly given. See *Webb* v. *Hughes*(1). That notice was never given. The abortive attempt to give it serves to shew that the vendor himself did not treat time as of the essence in

(1) L.R. 10 Eq. 281.

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regard to the dates for payment fixed by the contract. At all events until he gave the notice of the 27th of March, and probably until, as he says in his statement of defence, he re-took possession on the 10th of May, he may fairly be regarded, if not as acquiescing in the purchaser's delay in payment, at least as not insisting upon any rights which that delay gave him. The entire delay in the present case was less than a year; the delay after notice to the only purchaser who was notified was forty-nine days; and only five days elapsed between the re-taking of possession alleged by the defendant and the tender to him of the balance of the purchase money on the 15th of May. The right to specific performance has been held not to have been lost by much longer delays. See cases cited in Fry on Specific Performance (5 ed.), page 541. In the *Dagenham Case*(1), if it should be regarded, as it seems to have been in the *Kilmer Case* (2), as an authority on the question of specific performance, the delay in payment was for over three years. In the present case it is obvious that any injury suffered by the vendor will be fully compensated by payment of interest. Under the circumstances disclosed in the evidence, and having regard to the terms of the contract, I do not think that specific performance should be refused on the ground of laches.

As to the failure to tender a conveyance for execution, the attitude taken by the defendant in his defence makes it quite clear that such a tender if made would have been useless. Tender of the purchase money — the really material thing to evidence the plaintiffs' readiness and willingness to complete the

(1) 8 Ch. App. 1022. (2) [1913] A.C. 319.

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contract — was sufficiently made. It was rejected not on the ground that it was unaccompanied by a tender of a conveyance for execution, but on the ground that the contract had been rescinded. That would amount to a waiver of the tender of a conveyance.

On the whole case I am, with respect, of the opinion that, in the sound exercise of judicial discretion, specific performance should not be refused. The judgment in appeal should be reversed with costs in this court and in the Court of Appeal and judgment should be entered for the plaintiffs for specific performance with costs in the form followed in the courts of British Columbia.

BRODEUR J.—I agree with Mr. Justice Duff.

Appeal allowed with costs.

Solicitors for the appellants: *Tait, Brandon & Hall.*
Solicitor for the respondent: *W. H. Langley.*