Baxter v F W Gapp & Co Ltd [1938] 4 All ER 457

KING'S BENCH DIVISION

GODDARD LJ SITTING AS AN ADDITIONAL JUDGE

9, 10, 11, 14, 16 NOVEMBER 1938

Agency - Professional agent - Duty to use care and skill - Valuation of property - Advance by way of mortgage on footing of valuation - Negligence - Knowledge of locality - Reliance upon valuation - Measure of damages.

The defendant, an estate agent, was sued for negligence in making a valuation of property for the purpose of an advance by way of mortgage. It appeared that the defendant inspected the property but failed to make any local inquiries as to the value of that or similar properties in that locality. The defendant had not practised in the locality. The defendant also failed to inquire the price the property had realised upon recent dealings. The valuation was £ 1,800. The property had been purchased by the mortgagor for £ 600, and the highest price at which it had changed hands in recent times was £ 850. Certain additions and alterations to the property were, at the time of the valuation, being made, and the defendant advised an advance of £ 1,200 upon first mortgage, subject to £ 200 being retained pending the completion of the additions. The defendant subsequently advised an advance of £ 150 on second mortgage. This valuation was given to the plaintiff's solicitors, who subsequently discovered the price the property had realised in recent transactions, and also received a suggestion that the value was too high, from a local agent:--

Held - (i) the defendant must be taken to have held himself out as possessing the necessary experience and skill to value this particular property. His knowledge of property in the locality was insufficient, and he ought to have taken steps to inform himself of the value of similar properties there, which he had failed to do.

(ii) the facts did not support a contention that the plaintiff had not relied upon the defendant's valuation.

(iii) the measure of damages was the whole loss sustained by the plaintiff, and included the expenses of the abortive sales, insurance premiums, builder's account for upkeep of the property, mortgagee's expenses and disbursements and the agent's commission upon the ultimate sale of the property, in addition to the principal advanced and the interest unpaid.

Notes

The judgment herein discusses at length the duty of a professional man called upon to give professional advice. The particular profession in this case is that of estate agency, but in a general way the same principles apply to other professions. The facts of the case entail a consideration of the duties of an estate agent when called upon to value a property outside his own area and in a district in which he has had no previous experience of the valuation of properties. The

judgment concludes with an examination of the measure of damages in such a case, and in general decides that all the expense and loss to which the mortgagee has been put or which he has suffered are to be included in the assessment.

As to Agent's Duty to Use Care and Skill, see Halsbury (Hailsham Edn), Vol 1, pp 244-246, paras 416, 417; and for Cases, see Digest, Vol 1, pp 433-435, Nos 1239-1266.

Case referred to

Kennedy v De Trafford [1897] AC 180; 35 Digest 504, *2356*, 66 LJCh 413, 76 LT 427.

Action

Action for damages for breach of contract by a mortgagee against a firm of surveyors, and the partner who made the survey, alleging negli-

gence, and want of skill and care in advising the plaintiff that the property was a good security for an advance under the Trustee Act 1925, of £ 1,200 on first mortgage and £ 150 on second mortgage. The defendants' report was as follows:

> 'We have carefully considered the market value of this property, and having taken all matters into consideration, we value this freehold property known as Garden Lodge, Derek Road, Maidenhead, Berks, when the alterations have been completed, in the sum of £ 1,800, assuming, of course, the property is free from land tax and tithe, and we are therefore prepared to advise, having regard to the Trustee Act 1925, that the sum of £ 1,200 be advanced on first mortgage, subject to the amount of £ 200 being retained until the alterations and additions as above mentioned are completed and passed by us, and we consider this property a reliable trustee security for an advance of this figure.
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> '*Recommendation*.--We advise a re-valuation in, say, five years from this date, in case there should be fluctuations in value due to circumstances we cannot at present foresee.'

The plaintiff claimed the amount of all the principal advanced, the solicitor's costs incurred, the interest accruing due from 28 February 1936, the expenses of the abortive auction sales, premiums paid on 8 February 1937, and 6 January 1938, upon a comprehensive insurance of the property, a builder's account for work done to the property, mortgagee's expenses and disbursements, and the agent's commission upon the ultimate sale of the property.

J P Eddy KC and Harold Willis for the plaintiff.

G Russell Vick KC and E Ryder Richardson for the defendants.

16 November 1938. The following judgment was delivered.

GODDARD LJ.

In this action the plaintiff sues a company and its managing director, Mr Gapp, for negligence in making a valuation of a freehold property consisting of a bungalow and gardens at Maidenhead, upon which the plaintiff was desirous of lending money by way of mortgage. The defendant valued the house at £ 1,800. When the mortgagor made default, and the property was sold, it realised the sum of £ 850, which, with loss of interest and so forth, constituted a serious loss to the plaintiff. He brought this action against the defendants, alleging that the valuation of £ 1,800 was not a justifiable valuation, and that it was made negligently.

The case is one of some difficulty, and has caused me some anxiety, especially as it is an action against a professional man, for one is always reluctant to find that a professional man, who is acting in good faith--there can be no suggestion here that Mr Gapp was acting otherwise than in good faith--has been guilty of negligence. It is therefore necessary to examine the facts with some care. In 1935, Mr Gapp was approached by a firm of mortgage brokers who were desirous of obtaining an advance on the security of this house for the then occupier and owner, a Miss Holley. Mr Gapp was well known to the solicitors for the plaintiff, with whom he had had business on previous occasions, and he laid the proposition before them. They had a client, a Mr Baxter, who was looking for a mortgage, and they were willing to entertain the business. As is customary in these matters, they employed the estate agents who

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introduced the matter to them to value the property. It is not very clear what Mr Gapp's knowledge of Maidenhead properties was. I do not think that he had very much knowledge of Maidenhead property as such, but he undertook the valuation, and, therefore, of course, in undertaking it he undertook it subject to all the liabilities to which that employment subjected him. I think one may state quite simply the duty which he owed. His duty was, first of all, to use reasonable care in coming to the valuation which he was employed to make and he must be taken to have held himself out as possessing the experience and skill required to value the particular property. If he did not know enough about the property market, or the value of the property at the place where the property was situate, he ought to have taken steps to inform himself of the values of properties there, or of any circumstances which might affect the property. It would be no defence, for instance, to say: "I made this valuation, but the reason why my valuation has proved incorrect, if it has proved incorrect, is that I was not a person, as you knew, who practised in that locality." It may have been that it would have been wiser to employ a person practising in the locality, but, if a man undertakes the work, of course, he cannot be heard to say, if his valuation turns out wrong, and to be such as cannot possibly be supported: "The reason for that was that I did not know enough about property in that neighbourhood." On the other hand, one also has to bear in mind very carefully the fact that valuation is very much a matter of opinion. We are all liable to make mistakes, and a valuer is certainly not to be found guilty of negligence merely because his valuation turns out to be wrong. He may have taken too optimistic or too pessimistic a view of a particular property. One has to bear in mind that, in matters of valuation, matters of opinion must come very largely into account.

Mr Gapp went down to see the property on a Sunday--not, perhaps, the day when we expect a professional man to be making a valuation. I am not saying that from any Sabbatarian point of view, or prejudice, but, as a rule, one would not suppose that a valuer would make his inspection on Sunday, especially if it was necessary, or he thought it was necessary, to make any inquiries in the place before coming to an opinion. He had tea with the people in the house, Miss Holley and a gentleman who was described as Miss Holley's man of business, and no doubt the property was painted in very glowing colours by those people, who were naturally anxious to get as much money as they could on the property.

It was then a comparatively small bungalow. It lay in a private road just off Ray Mead Road, which runs along the bank of the Thames at Maidenhead from the Maidenhead Bridge towards Cookham, and is on the level of the banks of the river, just by Boulter's Lock, as was disclosed in Mr Gapp's report. Anybody reading Mr Gapp's report, I think, would realise, as indeed the plaintiff's solicitors did realise, that it was so near to the river that it must be regarded as being practically on the level of the river banks. It is not a property, I should say at once,

of the type with which one is very familiar on the Thames, especially in the neighbourhood of Cookham and Marlow and Maidenhead, a riverside property with the gardens running down to the river. It lies a few hundred yards from the river, and is in a road where there are other properties of a somewhat similar nature. Undoubtedly, since she had bought the house the mortgagor had spent a considerable sum of money on improvements. Central heating had been installed, running water had been put into the bedrooms, and a new wing was in course of erection. I should think that it was for the purpose of paying for this new wing that the mortgage was required. Mr Gapp no doubt had to visualise what the property would be like when it was finished. I do not gather that there was very much difficulty in doing that. Not only did Mr Gapp have the plan, but also the work was far enough advanced for him to get a fair idea of what the property would be like. A day or two after his visit, he wrote his report, in which he advised that the value of the house was £ 1,800, and that he would advise the full amount of two-thirds being advanced on the property, which apparently he regarded as a trustee investment. When the solicitors saw this, they put it before their client, who was ready to entertain the proposition. Then there came the delivery of the abstract of title to the solicitors, and the first thing they noticed was that the intended mortgagor had paid only £ 600 for this property. It had changed hands three times in recent years. I think that the most for which it had ever changed hands was £ 800 or £ 850. The sums it had changed hands for were a great deal less than the sum at which Mr Gapp was valuing it, although he was valuing the property as it would be when finished, with the new wing added, and although he had also to take into account the improvements which had been effected. The solicitors called Mr Gapp's attention to this fact, and, as Mr Gapp said, that made him think. Either because it made him think or because it was suggested by the solicitors, or for both reasons, he resolved to consult a friend of his in the same profession, a Mr Humfrey at Maidenhead, as to the figure which he put upon this house.

The solicitors had also raised the question whether or not he had considered whether the property was liable to floods. Mr Gapp's answer to that in the letter he first wrote was that, in his opinion, there was absolutely no danger of flooding. He consulted Mr Humfrey, who, according to Mr Gapp's evidence, told him that in his view £ 1,800 at any rate was a full price. I think that it was put either full, or very full, price: it matters not which. Mr Humfrey had not then seen the property, and he said that he would go and have a look at it. After having looked at the property from the outside, but not from the inside, Mr Humfrey returned and gave Mr Gapp the somewhat vague advice that the property was worth from £ 1,200 to £ 1,600. Mr Gapp, however, passed that information on to the solicitors, but stuck to his own valuation, and said that he was still of opinion that £ 1,800 was the proper price. Mr

Humfrey also told him there was slight risk of flooding, and Mr Gapp passed that on to the solicitors also, who in due course passed it on to their client. Thereupon, the client seems to have been satisfied that he could accept Mr Gapp's valuation and advance up to two-thirds--namely, £ 1,200. I think that the client was taking some risk. Mr Gapp suggested that £ 200 of that money should be retained until the alterations, or rather the additions, were completed. The client in fact retained only £ 100, but no one suggests here that the value of the house was in any way impaired by the alterations which had not been completed. They were substantially completed. At a later stage in the case, he was asked whether he could advise a further £ 250 being advanced on second mortgage, and he said that he thought not, but that he would advise £ 150. A further £ 150 was advanced at a much higher rate of interest--9 per cent, reducible to 8 per cent if punctually paid. I ought to have said, perhaps, that the client had interest, not at 41/2 per cent, the amount of interest contemplated on the first mortgage, but at 5 per cent. I dare say that he did that because he thought, after hearing what Mr Humfrey had said, that there was some risk in the matter. So far as the second mortgage is concerned, again I do not think that that really advances the case either from the point of view of the plaintiff or from that of the defendants, because, if Mr Gapp's valuation was justifiable--I do not mean necessarily to £ 50, or even perhaps to £ 100, but if the house had a value of approximately £ 1,800, or anything near that figure--there was obviously room for a second mortgage of £ 150 to be taken on it, if the client was prepared to embark on that form of security, which, of course, is far more speculative than a first mortgage.

The rest of the case discloses a state of affairs unfortunate for both parties in this action. The mortgagor turned out to be an unsatisfactory sort of person. She did not pay her interest. She made default from the first. After she left in the autumn of 1935, the mortgagee, the plaintiff, entered into possession, and steps were taken to realise the security. It was put into the hands of Mr Humfrey, who offered it by auction. A good deal has been said about the lack of advertisement and lack of preparation of the auction, but I think that one has to bear in mind that this was not property which would stand a lot of advertisement. In fact, a sum of £ 15 15*s* was expended in advertising, but at any rate, whether or not it was advertised extensively (and I will assume that it was not), the result of the auction was that there was not a single bid, and the property remained on hand until 1938, when a Mrs Riposo came along and saw the property and offered £ 800. A sale went through at £ 850. It is to recover the loss which the plaintiff has made on this property that this action is brought. In his pleadings, he has set out several matters upon which he relies as showing that Mr Gapp was guilty of negligence. As a pure point of pleading, it is, of course, right that, if a plaintiff is relying upon specific matters in the way of negligence, or, rather, asserting matters as establishing negligence,

those should be pleaded as particulars of the statement of claim. On the other hand, I do not think that, in a case of this description, a plaintiff ought to be held entirely to the particulars, for this reason. The plaintiff's case is: "You advised £ 1,800 as the value of this house. That is the sum which you put upon it, and that was your valuation. I say that that was a negligent valuation because the house was never worth £ 1,800, and was not worth anything like £ 1,800. You could not have exercised due care and skill in coming to that conclusion." From the point of view of pleading, I think that I should be inclined to hold that that was enough, and, unless some specific matter was going to be relied on, some specific omission or some specific act which was said to amount to negligence, it would be enough for the plaintiff to take up that line and to say: "I am going to show, by the evidence of experts and others, that at no time could any reasonably careful valuer have said that £ 1,800 was the value of the house." I think that to a great extent that is what this case comes down to. I think that no one can say that Mr Gapp was negligent in saying that, in his opinion, there was no risk of flooding, and by that was meant the flooding of the house.

I do not want to say anything more about that, but that is not, to my mind, the difficulty in the way of Mr Gapp in this case. The question of valuation must to a great extent be a matter of opinion, and must depend upon a valuer's experience, but it is difficult to believe that a careful valuer in making a valuation does not endeavour to get some data on which to work. It is not very helpful, especially if a valuation is afterwards challenged to say: "The only thing that I did was to go and look at the place." There are questions which can be asked, none of which Mr Gapp did ask--for instance, what the person has paid for the property. True, he got to know of it afterwards, and, as he said, it made him think. In spite of what I heard in the somewhat conflicting accounts from the witnesses in the case as to the assessment being any guide, it seems to me impossible to say that the assessment can be no guide at all. It is no accurate guide, I quite agree, but, if a house is rated at something like £ 30 gross, or even at £ 45 gross, it is obvious that that house has a value very different from that of a house which is rated, even in an area where assessments are low, at £ 70 to £ 80. That is obviously a different proposition. This house was rated exceedingly low. I think that it is only fair to say that I do not at all accept the very condemnatory opinion that has been passed on this house by the plaintiff's witnesses. I was asked to go and see it, and, as it so happened that I was in the neighbourhood last Saturday, I went to see the house. I must assure the parties that I do not attempt to set up as an expert in values. It is no part of a judge's education to be skilled in valuing, and I do not in any shape or form wish to substitute what I saw for the evidence which I have heard, The advantage of going to see a property--and I may say that I have never yet tried a case relating to land or houses where I have not found

a view to be of the greatest assistance--is that it enables one to appreciate the better the evidence which is given by the experts, who, as is usual, and as one would expect, differ very considerably on most material points. I am bound to say that the house is exceedingly attractive. As a bungalow, for those people who care to live in a bungalow, I should think that it is as attractive as any bungalow can be. It is expensively fitted, one may say almost extravagantly fitted, for the type of property that it is. I am not speaking as perhaps an eminent architect or a Royal Academician would speak, and I am not passing any judgment upon its architectural value, but it is idle to say that, being the sort of property that it is, and being in the neighbourhood in which it is, it has not got an attractive appearance. It has a very attractive appearance. Inside, the bungalow is, I think one may say, quite exceptional. There are two very good sitting-rooms, bright, large for the class of property, and well fitted, and two bathrooms, fitted, I should think, at very considerable expense. The bed-

rooms are a good size, with good basins in them. The kitchen is a model of what a kitchen in a small property of this sort ought to be. Altogether, I am surprised at some of the evidence which has been given about this bungalow, because no one could see it without realising that, to a person who is willing to live in that sort of property, it must appear a very attractive place. I think that Mrs Riposo, in getting that property for £ 850, got an undoubted bargain, and she thinks so herself. Of course, Mrs Riposo having been here and given her evidence, I naturally did not discuss the matter with her when I was at the house. I think that perhaps I ought to say that one thing she did say--I could not stop her and I had no desire to stop her--was that, as she has redecorated the property, if she has to sell, she is not going to take less than £ 1,500 for the property. I only hope that she can get it.

Taking all these things into account, however, I still find it exceedingly difficult to understand how a valuation of £ 1,800 ever came to be put upon this property. I have to act upon the evidence which has been given in the case. Mr Arnold, a person of considerable experience--he is vice-chairman of the local building society--inspected the place with a view to a mortgage, and put the value at between £ 800 and £ 900, and that figure was supported by Mr Giddy. I say at once that I think that, giving due weight to the evidence I have heard, those figures are too low. I should be prepared to find, if I had to put a value on the property (and I do not have to do so), that the value was more than that. Mr Hunt, who gave his evidence with some care, put it as high as £ 1,150. That was the highwater-mark, from Mr Gapp's point of view, of the evidence called by the plaintiff. One cannot help noticing the very remarkable fact that Mr Gapp has not been able to call into the box a single surveyor or valuer to support his figure of £ 1,800. Mr Milne, who went nearer than anyone else--and he was not enthusiastic by any means--thought that somewhere about £ 1,600 might be put forward. The

inference I drew, after having heard Mr Milne's evidence, was that Mr Milne would not have advised that figure to a client if he had been valuing. At any rate, that was the highest he could go, and he had not, I think, made an inspection of the property. One difficulty in the way of Mr Gapp is that, when his valuation is attacked, as it has been attacked, and when it is said, and said with a great deal of force, that the facts show that this valuation was wholly excessive, the only thing that he can point to as having been done by him to check or support his opinion that £ 1,800 was the proper valuation of this house was that he cubed it, and, having found the number of cubic feet, took the figure of 1*s* 6*d*. However, that does not help at all, because the proper figure per cubic foot to take is again a matter merely of opinion, and, of course, you can support any valuation if, having got the number of cubic feet, you take the appropriate price per cubic foot. That does not help in the smallest degree, and, reluctant as I am to find that any professional man has not exercised due care in making a valuation, I am forced to the conclusion in this case that £ 1,800 was an entirely unwarranted sum to put upon this house, and I think that it is so unwarranted that it shows one of two things. I think that the more probable explanation in this case is that Mr Gapp was not well enough acquainted with valuations at Maidenhead. Maidenhead was described as one of the dormitory areas. Whether or not that is a proper description of Maidenhead, I think that probably the mistake in this case has arisen from the facts that Mr Gapp was not well enough acquainted with values at Maidenhead and that he did not pay sufficient attention to information which he got from Mr Humfrey, the very vagueness of which, I think, ought to have put Mr Gapp on much more inquiry than it did. In fact, what it did was to make him repeat with emphasis that £ 1,800 was the proper figure, and not only that it was the proper figure, but that, notwithstanding that this class of property--bungalow property--must be subject to severe fluctuations, and of a somewhat speculative character, the full amount of two-thirds could be advanced on this property, and that it could be looked upon as a trustee investment.

Having heard the evidence in this case, and having seen the property, I can only say that I do not think that that was a justifiable sum. I must therefore hold that the plaintiff has made out a case, and that he is entitled to recover. Mr Vick argued, and put forward with considerable vigour, the proposition that I ought to find here that Mr Baxter did not rely upon Mr Gapp's valuation. Where a plaintiff has employed and paid a person to value property for him, and has then advanced the amount of money which the valuer has advised, it requires a good deal to induce a court to say that the client did not rely upon the valuer's valuation. It does not lie in his mouth to say that unless he has very good ground for it. The only ground on which Mr Vick could found his suggestion was that the solicitors passed on to their client the information that Mr Humfrey had said that he thought the value was between £ 1,200 and

£ 1,600 and that the property was subject to slight flooding. The fact that Mr Gapp then said: "Notwithstanding that, I stick to my valuation," was also known to the solicitors, and the fact that the client, who has sworn he did rely on it, decided that he would advance the money which Mr Gapp advised seems to me to make it almost conclusive that he did rely on Mr Gapp. He may have thought that he was taking some risk, but that is not enough. I think that he did advance this money on the faith of Mr Gapp's valuation, and that is the only conclusion to which I can come on the evidence on that point.

I now turn to the question of what damages the plaintiff is entitled to recover. The plaintiff says: "My measure of damage is this: if you had given me careful information, made a careful valuation, this property would have been valued at a considerably lower sum. I should never have entered into this transaction at all." That is to say (I ignore the £ 150 for this purpose): "I should never have entered into that first mortgage transaction under which I advanced £ 1,200. Whether I should have entered into another transaction advancing £ 1,000, or whether I should have advanced £ 800, I do not know, but I should never have advanced this £ 1,200. I therefore entered into a transaction into which, but for your advice, I should never have entered. Therefore, if I show that I have a cause of action, my damage is the damage I have sustained through entering into this transaction." That seems to be right, unless, of course, some different measure has to be applied in ascertaining the actual damage he has sustained through the negligent valuation. Therefore, I think that one has to examine rather carefully the facts and the law with regard to this, because this matter is a question of law, and, if I am wrong on this question of law, I can be put right in another court. The facts relating to this I have already briefly indicated. It is said that in 1936 he re-took possession. The auction was in June 1937. The property then had been vacant a long time, and no one had come forward. It is said: "You did not advertise the property satisfactorily. You did not put an illustrated advertisement on the back page of *The Times*." That may be agreed. I dare say that it helps sales to do it. Certainly, if one may speak from one's own experience, the appearance of a property as one sees it in a photograph on the back page of a newspaper, when it is taken in the most favourable circumstances and at the most favourable angle, and the appearance of the property when one goes down to see it are very often two entirely different things. The descriptions which competent house agents can write about property make any descriptive writer's mouth water. However that may be, the property was advertised. It was advertised locally. I do not say that it was advertised extensively, and I think that it is quite possible that, if more advertising had been done, a better price might have been obtained. But was Mr Baxter under any duty to do this? I do not think that he was. The law as to what a mortgagee does when he is exercising his power of sale is well settled. I need only refer to a case to which I

referred in argument, *Kennedy v De Trafford*, where Lord Herschell said, at p 185:

> '... I am myself disposed to think that if a mortgagee in exercising his power of sale exercises it in good faith, without any intention of dealing unfairly by his mortgagor, it would be very difficult indeed, if not impossible, to establish that he had been guilty of any breach of duty towards the mortgagor. Lindley, L.J., in the court below, says that "it is not right or proper or legal for him either fraudulently or wilfully or recklessly to sacrifice the property of the mortgagor." Well I think that is all covered really by his exercising the power committed to him in good faith. It is very difficult to define exhaustively all that would be included in the words "good faith," but I think it would be unreasonable to require the mortgagee to do more than exercise his power of sale in that fashion. Of course, if he wilfully and recklessly deals with the property in such a manner that the interests of the mortgagor are sacrificed, I should say that he had not been exercising his power of sale in good faith.'

In the same case, Lord Macnaghten said, at p 192:

> '... if a mortgagee selling under a power of sale in his mortgage takes pains to comply with the provisions of that power and acts in good faith, I do not think his conduct in regard to the sale can be impeached.'

It is quite impossible to say that Mr Baxter acted otherwise than in good faith. He had this house on his hands for a long time. A mortgagee, like any other investor, is entitled to cut his loss, and may indeed be very well advised to do it. He did not extensively advertise this property. It would only have been a further expense if he had embarked on a large

advertising campaign--I have already said that he spent £ 15 15*s*, not a negligible sum, on it--and, if he had embarked on it, it would only have added to his loss. He did not get a single bid at the auction. I cannot see any reason at all why I should say that the property ought to have been offered in London rather than in Maidenhead. Then he employed local agents, who, he thought--and I dare say thought very rightly--given a longer time, might have got a better price. However, I do not think that he is under any duty, unless he wants to, to hold this property for an indefinite time in the hope that somebody may offer another £ 100. After waiting a very long time, he got this offer of £ 850, the only genuine offer he ever had for the property, and he took it. That being so, how can there be any different measure of damage as between himself and Mr Gapp? If he has done all that he can be required to do, so far as realising the property is concerned, you get at once the measure of the loss which he has suffered. The loss which he has suffered is not challenged in this case as a figure. Taking all the various items, and giving loss of interest, which lies in the ordinary way, and insurance premiums and credits allowed, the expenses of the sale, and one thing and another, and giving credit for the purchase price, the plaintiff says that he has suffered a loss of £ 742 16*s* 7*d*. That, I think, is the measure of the damage which he is entitled, and fairly entitled, to recover from the defendants in this case. I accordingly give judgment for that amount, and, if it is asked for, I think it must be with interest at the rate of 41/2 per cent from 3 June.

Solicitors: Barnard Taylor & Douglas-Mann (for the plaintiff); Nordon & Co (for the defendants).

C St J Nicholson Esq Barrister.