

Omfroy De Beaujeu and others - - - - - *Appellants*

v.

Casimir Dessaulles and others - - - - - *Respondents.*

FROM

THE SUPERIOR COURT OF THE PROVINCE OF QUEBEC.

JUDGMENT OF THE LORDS OF THE JUDICIAL COMMITTEE OF THE
PRIVY COUNCIL, DELIVERED THE 29TH JULY, 1921.

Present at the Hearing :

VISCOUNT HALDANE.

VISCOUNT CAVE.

LORD CARSON.

MR. JUSTICE DUFF.

[*Delivered by* VISCOUNT HALDANE.]

Having regard to what has taken place their Lordships do not think it necessary to give their reasons for the advice they propose to tender to the Sovereign.

They will humbly advise His Majesty that this appeal ought to be allowed and the judgments of both the Courts below set aside, and in lieu thereof that it ought to be declared that the agreement of the 30th April, 1910, so far as it authorised the respondents Casimir Dessaulles and James Domville to retain as remuneration for their services any surplus over \$200,000 of the purchase-money to be obtained by the sale of the property mentioned in the agreement, is not binding on the appellants or on the estate of Madame de Beaujeu and ought to be set aside. Those respondents are, therefore, jointly and severally liable to account to the estate of Madame de Beaujeu for all profits received by them from the sale of the shares and other property comprised in the agreement for sale dated the 13th March, 1911, less such sums as may be allowed by the Court for their fair and

reasonable remuneration for services rendered from February, 1903, until the completion of the sale to Wallberg, including the services rendered in connection with the purchase of the lands at the Pointe du Moulin. They will also of course be allowed their reasonable disbursements, including the purchase price of the lands at the Pointe du Moulin. On the balance of the account being found those respondents must pay to the estate the amount thereof with interest at 5 per cent. from the 13th March, 1911, to the date of payment. Those respondents will also pay forthwith to the estate of Madame de Beaujeu \$50,000 on account. In order that the accounts directed may be taken, the action will be remitted to the Superior Court to be disposed of in accordance with these directions.

As regards the costs, the respondents will pay to the appellants their costs incurred in the Courts below and of this appeal. The costs of taking the accounts will be in the discretion of the Superior Court.

In parting with the case their Lordships desire to make one observation with regard to Mr. Dessaulles, who is a gentleman of high standing. He has undoubtedly misconstrued the law, as many people have before him even under high professional advice, but no imputation of malevolence or fraud has been made against him, and no such imputation is implied by this judgment.

In the Privy Council

OMFROY DE BEAUJEU AND OTHERS

2.

CASIMIR DESSAULLES AND OTHERS.

DELIVERED BY VISCOUNT HALDANE.

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