

Privy Council Appeal No. 26 of 1930

Joseph Francis Langer - - - - - *Appellant*

v.

McTavish Brothers, Limited - - - - - *Respondents*

McTavish Brothers, Limited - - - - - *Appellants*

v.

Joseph Francis Langer - - - - - *Respondent*
(*Consolidated Appeals.*)

FROM

THE COURT OF APPEAL OF BRITISH COLUMBIA.

JUDGMENT OF THE LORDS OF THE JUDICIAL COMMITTEE OF
THE PRIVY COUNCIL, DELIVERED THE 20TH JULY, 1931.

Present at the Hearing :

LORD MERRIVALE.
LORD WARRINGTON OF CLYFFE.
LORD THANKERTON.
SIR JOHN WALLIS.
SIR GEORGE LOWNDES.

[*Delivered by* LORD MERRIVALE.]

Their Lordships have heard what has been very ably advanced by Counsel on both sides in respect of the respective appeals of these parties.

The material questions in the case are two, which were concisely stated by Mr. Lawrence; was the non-disclosure by the plaintiffs of the report made to them by Barnes in the summer of 1927 fraudulent, and was the defendant induced to buy by such fraudulent non-disclosure?

Their Lordships have had brought very fully to their attention the meaning and effect of the questions which were

left to the jury and of the answers of the jury to those questions, and their Lordships have considered this as it appears on the face of the questions and answers and also in the light of the summing-up. Their Lordships are satisfied that the answers of the jury to the questions which were left to them leave the matter in a degree of uncertainty which makes it impossible to say that the two points which were defined by Mr. Lawrence are disposed of by the answers of the jury to the several questions, and in particular to questions 5, 6 and 7. The result of that conclusion is that both of these appeals fail, and their Lordships will humbly advise His Majesty that the judgment of the Court of Appeal should be affirmed and the appeals dismissed.

Each of the parties has failed and, in their Lordships' view, there should be no order as to the costs of either of the appeals. The cost of printing the record—that is, merely the printer's bill—should, however, be borne by the parties equally.



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In the Privy Council.

JOSEPH FRANCIS LANGER

v.

MCTAVISH BROTHERS, LIMITED.

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JOSEPH FRANCIS LANGER.

(*Consolidated Appeals.*)

DELIVERED BY LORD MERRIVALE.

Printed by
Harrison & Sons, Ltd., St. Martin's Lane, W.C.2.

1931.