

of the Court recognizing their claim as an existing one against the lands. The lien which the writ of execution had created was gone before the proceedings had become effectual to preserve it, and in the meantime the rights of the defendant Mary E. Gamble as a bona fide purchaser intervened.

The appeal is dismissed with costs.

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CARTWRIGHT, MASTER.

MAY 27TH, 1903.

CHAMBERS.

DIERLAMM v. TORONTO ROLLER BEARING CO.

*Pleading — Statement of Claim — Statement of Cause of Action — Sufficiency—Damages for not Transferring Stock—Principal and Agent.*

Motion by defendant Henderson to strike out statement of claim as not disclosing any cause of action against him.

A. E. Hoskin, for the motion.

W. E. Middleton, for plaintiff.

THE MASTER.—In the 3rd paragraph there is a statement that the plaintiff "procured the defendant A. E. Henderson to be appointed attorney to execute the necessary transfers." The next paragraph alleges a receipt for the stock certificates signed by said defendant. The following paragraphs allege repeated requests to defendant to execute the necessary transfers so as to vest shares in the plaintiff, and his refusal to do so or to return the certificates to the plaintiff. The concluding paragraph alleges great loss resulting to the plaintiff from such neglect and refusal.

On such a motion as the present the truth of the allegations is to be assumed. So viewed they seem to me to set out a good cause of action, if hereafter supported by proof and not displaced by the defendant. He is charged by the plaintiff with having received the certificates in order, as attorney for the parties, to execute the transfers necessary to vest the shares of the defendant company in the plaintiff, and with a refusal either to execute the transfers or return the certificates, thereby causing serious loss to plaintiff.

The motion fails and should be dismissed with costs to the plaintiff in any event.