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APPELLATE DIVISION.

FIRST DIVISIONAL COURT.

JULY 15TH, 1918.

*FAIRWEATHER v. McCULLOUGH.

Husband and Wife—Security Given by Wife at Instance of Husband for Liability of Husband to his Employers—Consideration—Stifling Prosecution—Executed Transaction—Absence of Duress and Undue Influence—Prosecution not Threatened by Employers, but Husband Apprehensive of Arrest—Action to Set aside Security—Findings of Fact of Trial Judge—Appeal.

An appeal by the plaintiff from the judgment of MASTEN, J., ante 175, dismissing the action with costs.

The appeal was heard by MEREDITH, C.J.O., MACLAREN, MAGEE, and HODGINS, J.J.A.

Gideon Grant and L. C. Smith, for the appellant.

D. O. Cameron, for the defendants, respondents.

MEREDITH, C.J.O., reading the judgment of the Court, said that the appellant brought the action to set aside a chattel mortgage given by her to the respondents, and based her claim to that relief on the ground that she executed the mortgage through the duress, undue influence, and misrepresentation of the respondents, and also of her husband, and without independent and competent advice and without full knowledge of the facts and of the transaction into which she entered.

The chief ground relied on in argument was, that the mortgage was given to stifle the prosecution of the husband.

* This case and all others so marked to be reported in the Ontario Law Reports.