

CARTWRIGHT, MASTER.

APRIL 4TH, 1905.

CHAMBERS.

BEATTY v. McCONNELL.

*Pleading—Statement of Claim—Fraud—Notice—Embarrassment.*

Motion by defendants to strike out 9 paragraphs of statement of claim as not being properly pleaded and being embarrassing.

J. H. Moss, for defendants.

T. P. Galt, for plaintiff.

THE MASTER :—I do not think the motion can succeed. The statement of claim is perhaps inartistic in some respects, and reads in places more like an affidavit than a pleading. This, however, is no ground for excision. Nor can I see that any unnecessary or irrelevant facts are set out. The action is to set aside a deed to Bull and a deed from him to McConnell.

This claim is based on two grounds. The first is, that plaintiff is a purchaser for value without notice. As to this there is no objection.

The second is alleged fraud on the part of defendant G., in that he knew of plaintiff's title, and yet, by concealment and misrepresentation, induced the Provincial Secretary to issue deed to Bull on ground that he had lost his certificates.

Paragraphs 10 and 11 sufficiently charge fraud against G., and paragraphs 12 and 13 allege notice to other defendants through G. as their solicitor, so that all had notice of plaintiff's title before issue of deed to Bull.

This seems enough to satisfy the rule as to allegations of fraud laid down by Lord Watson v. Salomon v. Salomon, [1897] A. C. at p. 35; see also judgment of Thesiger, L. J., in Davy v. Garrett, 7 Ch. D. at p. 489.

It does not seem to me that defendants here can truly say they are embarrassed in finding out what is the case they have to meet. This is the test given in Davy v. Garrett, supra, at p. 488.