

for delivery over to a trust company as security for mortgage-bonds to be placed with the trust company—these bonds to be collateral to the debt by Taylor to Chillingworth of \$62,000, the balance of the purchase-money of the mine. In the result, these bonds were the property of Chillingworth until he should be paid. The deeds going along with the bonds could not be said to have been other than in escrow; and Chillingworth still held the land.

He therefore had the right to sue for damages. But there was no evidence to justify the finding of \$7,500 damages. There may have been that amount, less or more, but the evidence was loose, imperfect, and wholly unsatisfactory. There was sufficient evidence to justify a finding that some damage was sustained, but not to fix the amount.

The judgment should be set aside; costs of the appeal should be paid by the respondent; and there should be a reference to the Master in Ordinary to inquire and report what damages the plaintiff had suffered, reserving all other questions of costs and subsequent directions until after the Master's report.

LENNOX and ROSE, JJ., concurred.

MEREDITH, C.J.C.P., agreed in the result, for reasons stated in writing.

Appeal allowed.

SECOND DIVISIONAL COURT.

JUNE 22ND, 1917.

***HOLLIDAY v. BANK OF HAMILTON.**

Attachment of Debts—Rent not yet Due—Apportionment Act, R.S.O. 1914 ch. 156, sec. 4—Pro Rata Part not Attachable—Effect of Previous Attaching Order—Effect of Fi. Fi. Lands in Hands of Sheriff—Assignment of Rent by Debtor—Validity of Assignment—Execution Act, R.S.O. 1914 ch. 80, sec. 34—Conveyancing and Law of Property Act, R.S.O. 1914 ch. 109, sec. 10.

Appeal by the defendants from the judgment of SWAYZE, Jun. J. of the County Court of the County of Victoria, finding in favour of the plaintiff an issue arising out of garnishment proceedings.

The appeal was heard by MEREDITH, C.J.C.P., RIDDELL, LENNOX, and ROSE, JJ.