

SECOND DIVISION COURT OF GREY.

WIDDIFIELD, JUN.CO.C.J.

NOVEMBER 11TH, 1915.

STANDARD BANK OF CANADA v. ELLIS.

Division Court—Order Transferring Action after Judgment—Jurisdiction—Division Courts Act, R.S.O. 1914 ch. 63, sec. 79—Judgment Summons—"Action"—Transcript of Judgment—Sec. 188.

The plaintiffs sued the defendant, in the Eleventh Division Court in the County of Wellington, upon a promissory note. The defendant resided within the territory of the Second Division Court in the County of Grey; but he did not dispute the jurisdiction; and on the 4th May, 1915, judgment was given against him in the Wellington Division Court for \$135. On the 11th June, 1915, a judgment summons was issued out of that Division Court, and served on the defendant. On the 8th September, 1915, an order was made by the Junior Judge of the County Court of the County of Wellington, as follows: "It appearing that this cause has been entered in the wrong Division Court, I hereby order that all papers and proceedings in this cause be transferred to the Second Division Court in the County of Grey, in pursuance of section 79 of the Division Courts Act, and that these proceedings may be continued in the same manner as if they had originally been entered in the said Court."

A. S. Clarke, for the plaintiffs, applied to WIDDIFIELD, JUN. Co.C.J., at a sittings of the Second Division Court in the County of Grey, to make an order against the defendant, upon a consent signed by the defendant.

WIDDIFIELD, JUN.CO.C.J., said that the Junior Judge of Wellington had no power to make the order of the 8th September under sec. 79 of the Act, R.S.O. 1914 ch. 63. That section has no application to a proceeding in the nature of a judgment summons—notwithstanding the extended meaning given to "action" in the interpretation clause of the Act. "Action" is used in sec. 79 in its ordinary sense, as meaning the initiating proceeding to enforce the plaintiff's claim. The whole context implies this. We do not speak of "entering" a judgment summons. A judgment summons is a process merely in the nature of execu-