

SECOND DIVISIONAL COURT.

FEBRUARY 25TH, 1921.

DOMINION BANK v. REINHARDT.

Fraudulent Conveyance—Voluntary Conveyance of Land by Father to Son for Benefit of Son and other Children—Gift—Action by Creditors to Set aside—Financial Circumstances of Father at Time of Conveyance—Evidence—Brewing Business—Fear of Prohibitory Legislation—Gift not Actuated by—Parties—Trustees and Beneficiaries—Some Beneficiaries not Defending Action—Defence by Trustees—Form of Judgment.

An appeal by the plaintiffs from the judgment of ROSE, J., ante 414.

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

W. B. Milliken, for the appellants.

A. W. Ballantyne and F. H. Snyder, for the defendants, respondents.

MEREDITH, C.J.C.P., read a judgment in which he said that there was really no evidence of an actual intent to defeat, hinder, or delay creditors; nor that at the time when the gift in question was made the giver was in anything like insolvent or financially embarrassed circumstances. On the contrary, it was proved that he had been, and yet was, in a very profitable business from which he had amassed a very considerable fortune.

It is true that certain legislation was being sought at the time, which, if passed, might be ruinous to that business and to those who had their fortunes in it; but that had been sought for years, and, probably, not very many thought that, if ever it should be passed, it would be passed without making some reasonable compensation to those who might otherwise be ruined. Eventually it was passed without any provision being made for any such compensation—the result being the ruin of the fortunes of many, including apparently that of the giver of the gift in question.

But there was no evidence going any way towards proving that this gift of only a portion of a then large and valuable estate was made in contemplation of such a ruin.

This branch of the case created no difficulty.

As to the proper form of the judgment, all the beneficiaries, as well as the trustees, of the gift, were made parties; and one only of the beneficiaries defended; so that now the plaintiffs' claim stood as if confessed by all the beneficiaries but that one. The trustees, however, who had the legal estate in the whole of the property in question, also defended.