

STREET, J.—A Judge in Chambers cannot entertain the motion to set aside the order: *Damer v. Busby*, 5 P. R. 356. The defendant absconded from Ontario to the North-West Territories, and was brought back by persons other than plaintiff, upon a charge of embezzlement, upon which he was convicted and allowed to go on suspended sentence, so far as the criminal charge was concerned. While he was so in custody, plaintiff obtained the order for arrest and lodged it with the sheriff. There was nothing objectionable in the practice followed by plaintiff under these circumstances; he was not bound to wait until the prisoner had been discharged from custody under the criminal charge before applying for an order for arrest under civil process: *Ramsden v. Macdonald*, 1 W. Bl. 30; *Coppin v. Gunnell*, 2 Ld. Raym. 1572; *Altroffe v. Lunn*, 9 B. & C. 395; Rule 1021 (3); Form 135. Upon the merits no ground was shewn for discharging defendant from custody. Motion dismissed with costs.

STREET, J.

FEBRUARY 2ND, 1903.

TRIAL.

MURRAY v. SIMPSON.

Trusts and Trustees—Purchase of Land—Principal and Agent—Lien for Purchase Money—Purchase for Value without Notice—Damages for Detention of Land.

Action begun on 22nd November, 1901, by the wife of David Murray, against Nelson Simpson and his wife, B. J. Clergue, the Lake Superior Power Company, and the Algoma Central Railway Company, to whom the Lake Superior Power Company had transferred a part of the land in question, 67 acres in the township of Korah, adjoining the town of Sault Ste. Marie, claiming a reconveyance and damages for registering a cloud upon her title, as well as for the detention of the land.

A. B. Aylesworth, K.C., and C. A. Moss, for plaintiff.

W. R. Riddell, K.C., and P. T. Rowland, Sault Ste. Marie, for defendants.

STREET, J. (after setting out the facts and evidence at length):—The position is this. Simpson knew that plaintiff was in effect the beneficial owner of the land, and that W. H. Plummer held the title for her, subject only to the payment of his lien of \$264; he paid Plummer the amount of the lien, and took the title in his own name, representing to Plummer that it was part of the arrangement upon a sale which he had made to plaintiff. This statement was untrue in fact, al-