

grasp, to influence my judgment. Even if I should think that Mohr was so optimistic that he really believed the statement which he made, upon the whole evidence I would have no hesitation in finding this stock to have been actually valueless on 31st January, 1900. It follows that, as defendants were bound to sell a quantity of that stock so as to realize for the company at least \$5,000, plaintiffs have by their failure to do so been damnified to that extent.

There will be judgment for the plaintiffs for \$5,000 with costs. This is not a case for interest.

JANUARY 3RD, 1905.

DIVISIONAL COURT.

O'CONNOR v. O'CONNOR.

Gift—Donatio Mortis Causa—Evidence—Corroboration.

Appeal by plaintiff from judgment of MEREDITH, J., dismissing without costs an action brought by the administratrix of the estate of Mary Kinnelly, deceased, to set aside a conveyance dated 22nd February, 1902, from deceased to defendant of certain lands in the township of Pickering, and also to recover certain moneys of deceased alleged to be in possession of defendant. The claim to have the conveyance set aside was abandoned at the trial. Defendant claimed the money as a gift from deceased.

The appeal was heard by FALCONBRIDGE, C.J., STREET, J., BRITTON, J.

W. Proudfoot, K.C., for plaintiff.

J. J. Foy, K.C., for defendant.

STREET, J.—My brother Meredith believed the evidence of Mr. Richardson, the notary public who was sent for by deceased on 17th September, the day before her death, as well as that of Ellen O'Connor, the defendant, and came to the conclusion that an intention to give the money in question to defendant and an effectual carrying out of that intention had been satisfactorily established. Plaintiff contends that the evidence does not shew that such an intention, if it existed, was ever carried into effect.

Deceased was a widow, 73 years of age; she had one child, who had been in an insane asylum for many years; plaintiff was her brother, but he lived a long way from her, and she