

in default, for repayment of \$1,500 paid by the plaintiff, and for a declaration of the plaintiff's lien therefor upon the land. The learned Judge said that it was admitted on all hands that the plaintiff had paid his purchase-money in full, and, as against the defendant McCormack at all events, had done everything to entitle him to a conveyance. And, upon the facts, dealing with conflicting evidence as to the transactions between the defendants, the plaintiff was entitled to a conveyance as against both defendants. The defendants not having got in the title, a judgment for specific performance would be useless. Judgment against both defendants for \$1,500 with costs; execution to be stayed for sixty days; and, if the land is conveyed or transferred according to the law of Saskatchewan, within that time, that is to be a satisfaction of the judgment for \$1,500, and the plaintiff is to have execution for the costs only. No order as to costs between the defendants. W. B. Lawson, K.C., for the plaintiff. W. N. Tilley, for the defendant Barrett. R. A. Pringle, K.C., for the defendant McCormack.

MEAGHER v. MEAGHER—LENNOX, J.—MAY 14.

Will—Validity—Construction—Devise and Bequest—Absolute Ownership of Subject of Gift—Costs.]—Action by George Meagher against Mary Ann Meagher and others for a declaration that a certain document purporting to be the last will and testament of Thomas Meagher, deceased, admitted to probate by a Surrogate Court, was not his last will, but that he died intestate, and to set aside the probate, or, if the will should stand, for a declaration as to the true construction of paragraph 5. Upon the facts and evidence given at the trial, the learned Judge found in favour of the will, and adjudged that the grant of probate should be confirmed and the action dismissed. He was also of opinion that paragraph 5 conferred upon the testator's daughters Mary Ann Meagher and Margaret Ellen Meagher the absolute ownership of the personal estate and effects and the ownership in fee of the lands in that paragraph described for their own exclusive use and benefit. There was justification for inquiry both as to fact and law; and it was, therefore, a case in which the costs of all parties should come out of the estate, were it not that all available assets had been distributed. In the circumstances, the action should be dismissed without costs except the costs of the Official Guardian, which should be paid by the