

1480 in registry division of East Toronto. A certificate was obtained and registered. Defendants now moved to vacate this.

J. R. Roaf, for the defendants' motion.

J. J. Hubbard, for the plaintiff, contra.

CARTWRIGHT, K.C., MASTER:—The doctrine of *lis pendens* is fully considered in *Brock v. Crawford*, 11 O. W. R. 143. There it was said (p. 147), that to have a certificate of *lis pendens* removed a defendant must "shew clearly that there is and can be no valid claim in respect of the land; and that the proceedings—not alone the registration of the certificate, but also the claim of which notice is given by such certificate—are an abuse of the process of the Court. That can only be done by proving that under no possible circumstances can the facts as set out in the pleading give any right to the plaintiff in respect of the lands in question."

The notice of motion was served on 25th inst. The plaintiff's solicitor apparently saw (as is incontrovertible) that the indorsement of the writ did not comply with what was said by Boyd, C., in *Sheppard v. Kennedy*, 12 P. R., at p. 245: "Where the plaintiff seeks to register a *lis pendens* he should be more precise than in ordinary cases, and by his indorsement he should define generally the grounds of his claiming an interest in the lands."

He, thereupon, on 27th inst. delivered a statement of claim in which after setting out very fully the facts on which the claims to commissions are based, in paragraph 10 it is alleged that defendants agreed to give plaintiff a ten day option (running from August 1st) "to sell the balance of the farm, and a letter was drawn up to that effect, which defendant McWhinney took possession of and agreed to sign and have defendant Radford sign and hand over to plaintiff which was not so handed over."

Paragraph 11 further alleges a refusal by defendants to sign this option.

Nothing is said as to any similar agreement in respect of the Richard street lots—and as to these the certificate should certainly be vacated.

Assuming that a certificate of *lis pendens* issued on a defective endorsement can be rehabilitated by a sufficient allegation in a statement of claim (see *Sheppard v. Kennedy*, *supra*, at p. 244), there is at most here nothing definite or