

SUPREME COURT OF ONTARIO.

SECOND APPELLATE DIVISION.

OCTOBER 29TH, 1913.

BUELL v. FOLEY.

Conversion — Finding of Jewelry by Mill-hand in Rubbish—Ownership of.

SUP. CT. ONT. (2nd App. Div.) dismissed an action brought by plaintiff, a mill-hand against defendant, another mill-hand for conversion of certain jewelry found in old papers they were sorting, holding that plaintiff had no title either as owner or finder.

Appeal by plaintiff from a judgment of HON. MR. JUSTICE LATCHFORD, pronounced 25th June, 1913.

Action by operator in St. Lawrence Paper Mills to recover from defendant, another operator, possession of diamonds and emeralds, or in alternative for \$2,000 damages, alleged by defendant to have been found by her in some old papers she was examining and which she charges were picked up and appropriated by defendant while plaintiff was examining the papers from which they came.

HON. MR. JUSTICE LATCHFORD at trial dismissed the action with costs.

The appeal to the Supreme Court of Ontario (Second Appellate Division), was heard by HON. SIR WM. MULOCK, C.J.Ex., HON. MR. JUSTICE RIDDELL, HON. MR. JUSTICE SUTHERLAND, and HON. MR. JUSTICE LEITCH.

George A. Stiles, for the plaintiff, appellant.

Robert Smith, K.C., for the defendant, respondent.

Their Lordships' judgment was delivered by

HON. SIR WM. MULOCK, C.J.Ex. (v.v.):—It is impossible for us to discover how the plaintiff has any title to this property. She was not the owner of it: the owner was some innocent person and it happens to be found in the bale of goods. And even if the custom of the mill entitled the plaintiff to hold it, if she found it, as against the owner of the mill, so that they would not be accountable, that would not give her title, for the evidence is that finders were owners; and though some other holder may have trespassed, the plaintiff did not find the articles. She did not derive