

BRITTON, J.

APRIL 7TH, 1902.

CHAMBERS.

HUFFMAN v. HULL.

Pleading—Statement of Claim—Particulars—Mortgage—Sale under Power—Conspiracy—Account.

Application by the defendant Hull to compel the plaintiff to amend paragraphs 5, 7, and 8 of statement of claim, or for particulars.

The plaintiff alleged that he and defendant Hull were the owners of certain land, subject to a mortgage to one Harris; that by the result of an action between plaintiff and defendant Hull, plaintiff became sole owner, subject to the Harris mortgage.

(5) That under the power of sale in the Harris mortgage the land was sold, and the defendant Allen became the purchaser in trust for plaintiff, and Allen now holds the land as trustee for plaintiff.

(7) The defendants contrived and conspired together to defraud the plaintiff and deprive him of the value of the land over and above the mortgage under which it was sold.

(8) That as between plaintiff and defendant Hull, plaintiff is entitled to all the moneys which may be found due by defendant Allen in connection with the lands, in priority to defendant Hull.

Plaintiff claimed an account.

The Master in Chambers refused the application as regards paragraphs 5 and 8, but ordered particulars under paragraph 7 to be delivered after defence and after examination of defendants for discovery.

The defendant Hull appealed.

H. E. Rose, for appellant.

A. C. McMaster, for plaintiff.

BRITTON, J.—I think the plaintiff might well have been more full and specific in his statement of claim, but I do not think the defendant Hull need be at all embarrassed in regard to his statement of defence. If the plaintiff has any claim such as indicated, Hull can easily meet it as a matter of pleading. I do not think I should interfere with the order made by the Master. Appeal dismissed. Costs in cause.

Brewster, Muirhead, & Heyd, Brantford, solicitors for plaintiff.

A. S. Ball, Woodstock, solicitor for defendant Hull.