for her for that amount. On appeal to the Full Court, being of opinion that the amount of damages was excessive, with plaintiff's consent, reduced it to $1,000.

As precise directions were not given to the jury as to what they should have taken into account in estimating the damages, and as the case had been allowed to go to the jury without such directions without objection by defendants' counsel and without contradiction of the statement as to the damages being $3,000, no costs of the appeal were allowed.

Davis, K.C., for defendants (appellants). *Macdonell*, for plaintiff (respondent).

Full Court.] [April 15.

CENTRE STAR MINING CO. *v.* ROSSLAND-KOOTENAY MINING CO.

Mining law—Trespass—Wrongful abstraction of ore by trespass workings—Conversion—Injury to adjoining mine by accumulation of water—Nuisance—Injunction—Liability of company for trespass of predecessor in title.

Appeal from judgment of MARTIN, J., dismissing plaintiffs' action for damages for trespass and taking ore from plaintiffs' mineral claim and also for damages caused by an accumulation of water in the trespass workings. Defendants purchased a mineral claim having ore on the dump which had been wrongfully taken from plaintiffs' claim; they let the ore remain where it was at plaintiffs' disposal:

Held, there had been no conversion of the ore by defendants. Defendants' predecessors in title ran trespass workings from their mineral claim, the Nickle Plate, through the Ore-or-No-Go mineral claim, in which they had a right to mine, but of which the plaintiffs were the owners in fee, into plaintiffs' mineral claim, the Centre Star, which adjoined the Ore-or-No-Go claim; to stop the flow of water from the Nickle Plate through the trespass workings to the Centre Star claim defendants built bulkheads on the boundary between the Centre Star and Ore-or-No-Go claims and at this point a large body of water accumulated:

Held (reversing MARTIN, J., in this respect), that the accumulation of water was a menace to plaintiffs and amounted to a nuisance and that the bulkheads should have been built at the Nickle Plate boundary so as to keep the water from flowing from the Nickle Plate into the trespass workings.