

action being at issue on 12th October, 1901, the parties executed an agreement for a consent judgment for plaintiff for \$3,750 without costs, and providing that all the properties mentioned in the statement of claim should be sold by the plaintiff and defendant Croil, and the proceeds divided equally between plaintiff and defendants.

On the 25th October, 1901, such a judgment was accordingly pronounced, and the lands were duly offered for sale, and bought by Croil. The sale was conducted by the Master at Cornwall, as provided by the judgment, and on 15th March, 1902, he made his report, finding a certain amount due. The defendant Croil appealed therefrom; and on the 10th October, 1902, an order was made referring back the report, and directing the Master to report as to title and to ascertain "what amount, if any, is due by the said John H. Croil to the plaintiff upon an adjustment of all the matters in question between the parties," and directing that upon payment within 20 days thereafter of such amount a vesting order already made should be handed to said Croil.

The Master made his further report on 17th February, 1903, finding a balance of \$1,024.85 due by Croil and McCullough to plaintiff. From this report the defendants again appealed, and on 2nd April last an order was made reducing the amount due by defendants to \$898.85 and extending time for payment until 15th June instant.

From this order the defendants were appealing to the Court of Appeal, and a bond for security for costs had been filed and had not been disallowed. The present action was commenced on 5th May, 1903, to recover possession of the parcel sold to the Bakers under the agreement of 20th February, 1901. The statement of claim was delivered on 18th May. Thereupon the defendants moved to stay the action, as provided by sub-sec. (9) of sec. 57 of the Judicature Act. The cause was at issue and notice of trial had been given.

J. H. Moss, for Croil.

William Johnston, for defendants the Bakers, supported the motion.

C. H. Cline, Cornwall, for plaintiff, shewed cause. He urged that this action was only to recover the amount due by Croil and to acquire possession to prevent irreparable injury to the plaintiff. He offered to consent to the motion if defendants would give any substantial security.

THE MASTER.—I am of opinion that the motion must prevail. The whole matter now in controversy between the