

BROOM v. DOMINION COUNCIL OF ROYAL TEMPLARS OF TEMPERANCE—MASTER IN CHAMBERS—FEB. 5.

Pleading—Statement of Claim—Restriction—Claim to Set aside Release—Other Claims—Con. Rule 298—Judicature Act, sec. 57(12).]—Motion by the defendants to restrict the statement of claim to a claim to set aside a release given by the plaintiff, which, as they alleged, was a bar to any action in respect of the other matters set out in the statement of claim; and that, therefore, they should not be litigated until the release had been set aside. The motion was based on what occurred before RIDDELL, J., on the 2nd October, 1912, when the plaintiff moved for an order to be allowed to proceed in an action begun on the 25th October, 1899. No order was made on that application, but it was pointed out to the plaintiff, as one “*inops consilii*,” that it was no use to proceed with the first action, in view of the release given by him on the 2nd November, 1902, which must first be set aside. The Master said that this did not prevent the plaintiff from bringing the present action to set aside that release and joining with it a claim to such relief as he thought himself entitled to, if he should succeed in having the release declared void. In *Bristol v. Kennedy*, ante 537, it was said: “Under our present system of pleading it is difficult to maintain an order striking out a part of a pleading.” Here there was no ground for making such an order; there was nothing here calling for the application of Con. Rule 298. To leave it open to the plaintiff to bring another action, if the release was set aside, would be contrary to the very beneficial directions of the concluding part of clause 12 of sec. 57 of the Judicature Act. Motion dismissed, with costs to the plaintiff in any event. The Master added that the defendants could still move, under Con. Rule 531, to have the validity of the release tried out first; but he was not to be understood as recommending that course: see *Stow v. Currie*, 14 O.W.R. 62, 154, 248. Lyman Lee, for the defendants. The plaintiff in person.

MURRAY v. THAMES VALLEY GARDEN LAND CO.—HOLMESTED, SENIOR REGISTRAR—FEB. 8.

Particulars—Statement of Claim—Misrepresentations—Contract—Rescission—Demand—Costs.]—Motion by the defendants for particulars of the matters referred to in paragraphs 8, 9, 10, and 17 of the statement of claim, in an action to set aside