

THE MASTER:—According to the style of cause, the plaintiffs sue on behalf of themselves and all creditors of defendant B. A. Cook.

The statement of claim alleges that the plaintiffs recovered judgment on 17th October, 1907, against B. A. Cook for over \$4,000; that executions were issued on such judgment, which were returned nulla bona, and are still unsatisfied; that on 25th January, 1907, B. A. Cook mortgaged his real estate to one co-defendant—his uncle—and on 1st October, in the same year, conveyed his equity of redemption therein to his wife, the other co-defendant; that these two conveyances were fraudulent, void, and made to defeat and hinder the plaintiffs and all other creditors of said B. A. Cook; and the relief asked for is: (1) and (2) to have these conveyances declared void as against the plaintiffs and the other creditors of B. A. Cook; (3) “to have the said lands sold and the proceeds applied in satisfaction of the plaintiffs’ claim;” (4) further relief; and (5) costs.

Defendant B. A. Cook (1) pleads that he owed one co-defendant \$3,600, and executed the mortgage to him in consideration of such indebtedness; (2) denies all allegations of fraud and conspiracy. He then sets up that plaintiffs’ judgment has been more than satisfied by the proceeds of certain claims due to defendant and by him assigned to plaintiffs as security for the defendant’s indebtedness to them, and that in this case there is a balance due to plaintiffs by defendant. And he asks: (1) a declaration that the plaintiffs’ judgment has been satisfied; (2) an account of the dealings of the plaintiffs with the securities assigned to them.

In the way in which the action is framed, the motion must be dismissed. Although styled in a class action, yet no relief of that character is asked. The plaintiffs only ask to have the mortgage declared void as against themselves and the other creditors of B. A. Cook, to have the conveyance of the equity of redemption set aside, and then to have their own judgment satisfied by a sale. Nothing is asked such as is proper in a class action, nor is there any allegation that the defendant B. A. Cook is indebted to the plaintiffs beyond the judgment, though indebtedness to other persons is alleged.

An affidavit of plaintiffs’ manager is filed on this motion, which says that there is due to them a sum of several thousand dollars over and above their judgment. But this would