

Whatever jurisdiction the High Court has in such matters is purely statutory and is to be found in secs. 38, 39, and 40 of the Judicature Act and in the Surrogate Courts Act. . . .

I think it is impossible to say that either in the Judicature Act or in the Surrogate Courts Act jurisdiction is given to the High Court, in an action such as this, to adjudicate upon a claim to set aside a renunciation of probate, or to allow a retraction by a plaintiff who was named in the will as executor and who has filed a renunciation.

In such a case I think the plaintiff must go for relief to the Court in which the renunciation was filed and out of which probate issued.

I therefore decide the above questions of law in favour of the defendant James H. Kennedy, and direct that the action, except as to the claims set forth in paragraphs 15 to 23, inclusive, of the statement of claim, be dismissed with costs, and that the caution filed in the Land Titles office be vacated.

DIVISIONAL COURT.

MARCH 1ST, 1911.

*EUCLID AVENUE TRUSTS CO. v. HOHS.

Husband and Wife—Mortgage Given by Wife to Secure Debt of Husband—Wife Acting on Importunity of Husband—Absence of Independent Advice—Undue Influence—Onus—Evidence—Validity of Mortgage—Foreign Banking Corporation—Authority to Take Security—63 Vict. ch. 24, secs. 6, 14—License to Do Business in Canada.

Appeal by the plaintiffs from the judgment of MULOCK, C.J.Ex.D., 13 O.W.R. 1050, dismissing the action, which was brought by the plaintiffs, as mortgagees, against Agnes Hohns and her husband Edgar Hohns, to recover possession of the mortgaged lands, situate in the city of Toronto.

The appeal was heard by TEETZEL, CLUTE, and SUTHERLAND, JJ.

M. H. Ludwig, K.C., for the plaintiffs.

R. S. Robertson, for the defendants.

The judgment of the Court was delivered by CLUTE, J.:—

*To be reported in the Ontario Law Reports.