

Prosser v. Evans, [1895] 1 Q.B. 108. See Broom's Common Law, 10th ed. (Odgers), p. 669, and cases there cited. However this might be decided, it seemed clear that this was not a case for summary judgment. Motion dismissed; costs in the cause. See Smyth v. Bandel, 4 O.W.N. 425, 498. The second decision was affirmed on appeal on the 20th December, 1912, by Middleton, J. W. H. Gregory, for the plaintiffs. H. J. Macdonald, for the defendants.

SMYTH v. McCLELLAN—BRITTON, J.—JUNE 12.

Conversion of Chattels—Damages—Lien.—Action for the recovery of a saw-mill and machinery and appurtenances belonging to the plaintiff, which the defendants took and retained possession of, against the will of the plaintiff, during negotiations for a sale to the defendants at the price of \$1,400. The learned Judge finds that the defendants had no authority for taking possession. Judgment for the plaintiff for \$1,400 and interest from the 18th December, 1911, and a declaration that the existing lien upon the property is valid until payment in full, and that the plaintiff is entitled to the property until the judgment is fully satisfied. The money in Court is to be paid out to the plaintiff in part satisfaction of the judgment. The defendants to pay the plaintiff's costs on the High Court scale. R. McKay, K.C., for the plaintiff. J. W. Mahon, for the defendants.