

This was an appeal from the order of DUBUC, C.J., setting aside an order of the referee, made on the application of the plaintiff before judgment, attaching money due to the defendant by a third party to answer the judgment of the plaintiff to be recovered. That order had been made under Rule 759 of the King's Bench Act, R.S.M. 1902, c. 40, upon an affidavit of plaintiff drawn up in accordance with that rule.

*Held*, that the words "claim or demand" used in that rule, being limited by the words "due and owing" do not extend to a claim in tort for unascertained damages, that the plaintiff must shew that he is a creditor, that a person whose claim is merely one for damages arising out of tort cannot be said to be a creditor and cannot, therefore, obtain a garnishing order before judgment. *Grant v. West*, 23 A.R. 533, followed. Appeal dismissed with costs.

*Mackenzie*, for plaintiff. *Burbidge*, for defendant.

Full Court.]

HANNAH v. GRAHAM.

[May 6.

*Specific performance—Misrepresentation as to quality of land purchased—Caveat emptor—Fraud—Rescission of contract—Appeal from trial judge's findings of fact.*

Appeal from judgment of MATHERS, J., noted ante, p. 287, dismissed with costs on the ground that, as the trial judge's findings both as to the alleged representations and as to their falsity were adverse to the defendant, the court could not properly interfere with them.

The majority of the court, however, expressed doubts as to whether they would have decided in the same way upon the evidence. On the legal point involved, the majority expressed no opinion, but PERDUE, J.A., expressly dissented from the trial judge's view and cited *Redgrave v. Hurd*, 20 Ch.D. 1, and *Smith v. Land, &c., Corporation*, 27 Ch.D. 7.

*McLaws*, for plaintiff. *O'Connor and Locke*, for defendant.

Full Court.]

TRADERS BANK v. WRIGHT.

[May 15.

*Fraudulent conveyance—Injunction—Pleading—Evidence of fraud.*

Appeal from decision of MACDONALD, J., granting an injunction restraining defendant Archibald Wright from making further transfers of his property and his co-defendant, his wife,