

JUNE 4TH, 1913.

*CHANDLER & MASSEY LIMITED v. IRISH.

Company—Misapplication of Assets—Acquisition by Shareholder of Shares in Another Company—Acts of Agent—Breach of Trust—Winding-up of Company—Right of Liquidator to Follow Assets.

Appeal by the defendant from the order of a Divisional Court, 25 O.L.R. 211, 3 O.W.N. 383, affirming the judgment of Boyd, C., 24 O.L.R. 513, 3 O.W.N. 61.

The appeal was heard by MEREDITH, C.J.O., MACLAREN, MAGEE, and HODGINS, J.J.A., and LEITCH, J.

H. E. Rose, K.C., and G. H. Sedgewick, for the appellant,
A. C. McMaster, for the plaintiffs.

MEREDITH, C.J.O. (after stating the facts):—There was undoubtedly, as the Chancellor found, a misapplication of the money of the respondent company; and the appellant benefited by it to the extent of the \$1,000 applied to pay up his shares in the new company. . . .

The appellant is, in my opinion, answerable for the misapplication of the money of the respondent company, because his agent, Chandler, was a party to the misapplication, and also on the ground that the appellant was a volunteer in the transaction, and that, as against him, the respondent company is entitled to follow the property that has been substituted in the place of the trust estate.

The other members of the Court agreed in the result.

Appeal dismissed with costs.