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No. 7

MEREDITH, C.J.

FEBRUARY 14TH, 1903.

CHAMBERS.

TRADERS BANK OF CANADA v. SLEEMAN.

Discovery—Examination of Parties—Creditors' Action under 13 Eliz. ch. 5—Fraud—Pleading—Specific Attack—General Charges—Transfer of Assets of Debtor—Scope of Discovery.

Appeal by defendants from the order of the Master in Chambers (ante 127) requiring defendants George and Sarah Sleeman to attend for further examination for discovery.

W. M. Douglas, K.C., for appellants.

W. R. Riddell, K.C., for plaintiffs.

MEREDITH, C.J.—I think it is a pity that the order was not drawn up before the appeal came on to be heard, but I may as well dispose of this case now. It seems to me I can do as well now as after further consideration.

It may be that the pleading is not well drawn; and, very minutely criticized, it is perhaps open to some of the objections which have been urged against it by Mr. Douglas; but, looking at it as one must under the modern and somewhat loose system of pleading which prevails, and looking at it fairly and not too critically, I think the case which plaintiffs present is this. They make an attack upon a transfer of the lands which are mentioned in paragraphs 8 and 13 of the statement of claim—make a specific attack upon these. They also make a specific attack upon the moneys which have been employed in erecting the brewery upon these lands. They also, in a general way, by paragraph 6, attack transfers of property which is not described officially, at all events, but the particulars of which, they say, they are unable to ascertain; and these transactions they seek to attack as fraudulent as against creditors.

Paragraphs 5 and 7 allege the insolvency of defendant George Sleeman, the debtor, long before the transactions of 1902 which are impeached in paragraphs 8 and 13. There is