

Afterwards plaintiff purchased from the company their judgment against Lallemand, and brought this action in Ontario against Guibord and Lallemand, claiming judgment against Lallemand upon the Quebec judgment assigned to him, and against both defendants a declaration that Guibord held the transfer of the claim against the Government merely as trustee for Lallemand, and that Lallemand was the beneficial owner of it, the object being to enable plaintiff to obtain the money from the Government in some other proceeding, or to have the amount due from the Government applied by some other proceedings in settlement pro tanto of his claim as assignee of the company's judgment.

The action was referred for trial to the local Master at Ottawa, who found in favour of plaintiff. Defendants appealed to MEREDITH, C.J., who reversed the decision of the Master as far as plaintiff's claim against Guibord was concerned, dismissing the action with costs as against him, and ordering judgment to be entered against Lallemand for the amount of plaintiff's claim on the Quebec judgment; ante 168.

From this judgment plaintiff appealed to a Divisional Court, and defendant Lallemand also appealed upon the ground that the remedy against him in this Province was barred by the Statute of Limitations.

Glyn Osler, Ottawa, for plaintiff.

W. E. Middleton, for defendants.

The judgment of the Court (STREET, J., BRITTON, J.) was delivered by

STREET, J.— . . . Stewart has a simple contract debt against Lallemand; Guibord holds a claim against the Government; Stewart brings this action against Lallemand and Guibord, asking for judgment against Lallemand upon his simple contract debt, and for a declaration against both defendants that Lallemand, and not Guibord, is beneficial owner of the claim against the Government.

In my opinion, he is not entitled to such a declaration because at the time he began this action he was not a judgment creditor of Lallemand: *Thompson v. Cushing*, 30 O. R. 123, 388. . . . The reasons which prevent the owner of a mere simple contract debt, not reduced to judgment, from taking garnishing proceedings or proceedings for equitable execution, prevent his having any locus standi to obtain the preliminary relief of a declaration that the debt which he desires to seize is due to his debtor.