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No. 31

APPELLATE DIVISION.

APRIL 5TH, 1912.

*ZOCK v. CLAYTON.

Crown Lands—Patent — Misdescription — Application for same Lands—Dispute—Finding of Minister of Lands Forests and Mines—Patent for same Lands Issued to Second Applicant—Certificate of Title—Action by First Patentee to Establish Title—Parties—Attorney-General—Status of Assignee of First Patentee—Land Titles Act—Effect of Registration—Public Lands Act—Pleading—Amendment—Rectification of Register.

Appeal by the plaintiff from the judgment of a Divisional Court, 3 O.W.N. 1611, reversing the judgment of LATCHFORD, J., at the trial, and dismissing the action with costs.

The appeal was heard by MULOCK, C.J.Ex., MACLAREN, J.A., CLUTE, SUTHERLAND, and LEITCH, JJ.

C. A. Masten, K.C., for the plaintiff.

E. D. Armour, K.C., and A. C. Craig, for the defendants.

The judgment of the Court was delivered by CLUTE, J.:—
The plaintiff claims the land in question through one Walter Duncan, who obtained a grant thereof from the Crown, dated the 21st November, 1907, in which the island is called "Duncan's Island." Duncan subsequently registered the same, and received a certificate of ownership, under the Land Titles Act, on the 11th December, 1907, as parcel 1024. Subsequently, by transfer dated the 3rd November, 1908, and registered on the 26th December, 1908, as No. 4752, Duncan transferred the island to the plaintiff. Afterwards, in 1909, the defendants obtained a

*To be reported in the Ontario Law Reports.