

Deldo v. Gough Sellers Investments Limited (1915), 34 O.L.R. 274. The covenants were independent, and there was no provision that any part was to become payable when the building was completed.

The question of substantial compliance had been put upon a reasonable basis by *H. Dakin & Co. Limited v. Lee*, [1916] 1 K.B. 566.

The company guaranteed Tolton's payments; and if, because he did not pay, the company were called on to make them good, equity would require that the company should be allowed to set set off that which the debtor himself could set off. If substantial compliance were enough to warrant judgment under the contract, that judgment could not be for more than that to which substantial compliance would entitle the creditor. So that from the \$4,328.61 should be deducted \$700, as found by the County Court Judge.

Reference to *Murphy v. Glass* (1869), L.R. 2 P.C. 408; *Becher-vaise v. Lewis* (1872), L.R. 7 C.P. 372; *Halsbury's Laws of England*, tit. "Guarantee," vol. 15, p. 508, para. 960.

The appeal should be allowed to the extent of cutting down the plaintiff's judgment by \$700 and by adding interest on the balance from the date of the writ, and otherwise dismissed. No costs of appeal.

Appeal allowed in part.

FIRST DIVISIONAL COURT.

JANUARY 12TH, 1917.

*RE OWEN SOUND LUMBER CO.

Company — Winding-up — Contributories — Directors — Misfeasance — Winding-up Act, R.S.C. 1906 ch. 144, sec. 123 — Scope of — Procedure — Irregularity in Election of Directors — De Facto Directors — Liability — Payment of Dividends out of Capital — Payment of Bonuses — Increases in Salaries.

Appeals by J. M. Kilbourn, Wesley Sheriff, and W. H. Merritt, and cross-appeal by the liquidator, from the orders of MIDDLETON, J., 34 O.L.R. 528, 9 O.W.N. 103, made upon appeals from the rulings of the Local Master at Owen Sound.

The appeals were heard by MEREDITH, C.J.O., MACLAREN, MAGEE, and HODGINS, J.J.A.

J. H. Moss, K.C., for the appellant Kilbourn.