

MASTER-IN-CHAMBERS.

MAY 20TH, 1913.

KENNEDY v. KENNEDY.

4 O. W. N. 1336.

Lis Pendens—Order to Vacate—Terms—Payment of Proceeds into Court—Expedition of Trial.

MASTER-IN-CHAMBERS made an order providing for the vacation, in part, of a certificate of *lis pendens* and for the sale of the lands covered thereby, provided the money were paid into Court to abide the result of the action.

Motion to vacate certificate of *lis pendens*, in part, and to expedite trial.

O. H. King, for motion.

E. D. Armour, K.C., for plaintiff, contra.

CARTWRIGHT, K.C., MASTER-IN-CHAMBERS:—The lands in question are wholly unimproved and at the present time must be more or less of a speculative value.

The action is by a judgment creditor to set aside the transfer made by defendant to his wife—on the ground that same was fraudulent and designed to defeat and delay the realization of the plaintiff's judgment.

It is clearly for the interest of the plaintiff as much as for that of the defendants that the action should proceed with expedition, and that no chance of a sale in the present condition of activity in the real estate market should be lost.

This view is emphasized by plaintiff's counsel, and he has offered and still is ready and willing to allow any sales to be made if the purchase-money is paid into Court or retained by the defendant's solicitors to abide the result of this action. This seems to be a fair and reasonable arrangement and one which it is in the interest of both parties to carry out. It will give the defendants all that the Court could properly require the plaintiff to accept.

The statement of claim having been delivered on the 25th of April, there is no reason why the action should not be tried some time next month.

If there is any delay the defendants can set it down.

The motion is therefore dismissed with costs in the cause.