

Crighton and Cohen, for plaintiffs. *Dysart*, for defendant Anderson. *Galt*, K.C., *Levinson* and *Swift* for other defendants.

Robson, J.]

SMITH v. ERNST.

[Feb. 26.]

Jurisdiction—Service of statement of claim out of the jurisdiction—King's Bench Act, Rule 201 (g)—Parties to action—Vendor and purchaser—Specific performance.

When a vendor of land under an agreement of sale has conveyed the land and assigned the money payable by the purchaser to a third party, the purchaser may maintain an action against such third party for specific performance of the agreement, and the vendor is a proper, if not a necessary, party to such action.

When, therefore, such third party is duly served with the statement of claim within the jurisdiction, and the agreement was made and was to be performed within the jurisdiction, the statement of claim may, under paragraph (g) of Rule 201 of the King's Bench Act, be served upon the vendor out of the jurisdiction although he has ceased to be a resident of the Province and the land in question is not in the Province.

Trueman, for plaintiff. *Sutton*, for defendant.

Fredergast, J.,

[March 1.]

HAM v. CANADIAN NORTHERN RAILWAY COMPANY.

Damages for injury caused by shock—Neurasthenia following physical and mental shock.

Plaintiff, while travelling on a street car with which one of the defendants' engines collided, was thrown with the car down an embankment. His physical injuries, so far as they could be seen, were slight, but the mental shock he received was very serious, and a condition of acute neurasthenia and insomnia followed, and continued up to the time of the trial, incapacitating him from doing any work, and causing great suffering. Negligence on the part of the defendants was admitted.

Held, that the plaintiff was entitled to recover substantial damages in respect of the disease from which he was suffering, as the shock which brought it on was both physical and mental.

Verdict for plaintiff for \$2,000.

P. C. Locke and *C. H. Locke*, for plaintiff. *Clark*, K.C., for defendants.