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HON. MR. JUSTICE LENNOX.

MARCH 21st, 1914.

PATTERSON v. ALLAN.

6 O. W. N. 125.

*Costs—Security for Costs—Residence out of Jurisdiction—Property within Jurisdiction—Evidence—Insufficiency of Affidavits—Order for Security Set Aside.*

LENNOX, J., set aside an order of the Local Master at Brockville ordering plaintiff to give security for costs upon the ground that plaintiff's residence outside the jurisdiction had not been sufficiently established.

Appeal by plaintiff from an order of the local Master at Brockville requiring the plaintiff to furnish security for the defendant's costs of the action upon the ground that the plaintiff's residence was out of the jurisdiction.

Featherston Aylesworth, for plaintiff.

Fraser Raney, for defendant.

HON. MR. JUSTICE LENNOX:—With great respect I think the learned Local Master erred in directing security for costs. It is not denied that the property conveyed by the defendant to the plaintiff in 1905, has been paid for in full; or that he has been in possession of it, or that he relied upon the defendant, a solicitor, to give him a proper deed, or that there is in fact an error in the description requiring correction. The defendant as a solicitor must appreciate the importance of definite unequivocal language, and in view of this, I cannot read his affidavits as being otherwise than intentionally vague. The deed was registered in September, 1906, upon an affidavit—made, I judge, by a clerk in his own office—stating that the deed was “duly signed, sealed and executed,” by the defendant and his wife, and on the face of