

*Held*, that the Master had no jurisdiction to make such an order—Rule 42, clause 17 (d).

If a Judge of the High Court in Chambers has the power to make such an order (and, *semble*, he has) this was not a proper case for the exercise of it. The judgment being for only \$400 damages and costs there was no appeal to the Supreme Court without leave, and there was no doubtful question of law of such general importance as to call for extraordinary interference.

*Quare*, whether the stay of execution in such a case rests with the High Court or Court of Appeal.

*Slight*, for plaintiff. *H. E. Rose*, for defendants

Meredith, C.J., Idington, J., Magee, J.]

[Sept. 19.

LAWS & TORONTO GENERAL TRUSTS CORPORATION.

*Mortgage—Account—Payments by mortgagees—Release of claim—Improvements—Solicitor—Negotiation of sale—Commission.*

Mortgagees of land, the mortgage being in default, made an agreement for sale to C., who paid nothing, but entered into possession and made improvements, and in order to do so borrowed money from N., and assigned to N. his agreement from the mortgagees; the agreement and the assignment were registered. The mortgagees found another purchaser, and paid N. a sum of money for a release of his claim.

*Held*, 1. Upon an accounting by the mortgagees, at the suit of the mortgagors, on the basis of the second sale, the mortgagees were entitled to credit for the money paid to N.

2. They were entitled to credit for a small sum paid to their solicitor for negotiating the second sale—a service which comes within the scope of the professional duties and employment of a solicitor.

*Du Vernet*, for plaintiffs. *Shepley*, K.C., for defendants.

Cartwright, Master.] CANTIN & NEWS PUBLISHING CO. [Sept. 19.

*Discovery—Examination of former officer or servant.*

There is no power now under Con. Rule 439 (2), as substituted by Con. Rule 1250 for Con. Rule 439 (1), to make an order for the examination of a former officer or servant of a corporation for discovery.

*W. N. Ferguson*, for the motion. *Thos. Reid*, contra.

Magee, J.]

[Sept. 20.

RE ESTATES LIMITED AND THE WINDING-UP ACT.

*Winding up proceedings—Two petitions—Conduct of proceedings given to second petitioner.*

When there were two petitioners for a winding-up order against the one company, although orders were made under both petitions, the conduct of the proceedings was given to the later petitioner. a creditor for