

This being an action to recover the company's property, it seems to me it is properly constituted within the authority of that case. Upon the objection being raised, the plaintiffs applied for leave to add or substitute the liquidator as plaintiff, but it does not seem to me that any amendment is necessary.

The judgment should, therefore, be in favour of plaintiffs for the net proceeds of the 90 cases received by defendants, amounting to \$1,198.89, with interest at 5 per cent. from 27th January, 1906.

As plaintiffs have failed in the more substantial part of their claim, the judgment will be without costs. The defendants have also failed in a material part of their claim, and should not be allowed costs. See *Suter v. Merchants Bank*, 24 Gr. 365, where, under similar circumstances, the costs were disposed of in this way.

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MACMAHON, J.

JULY 3RD, 1907.

TRIAL.

McGUIRE v. GRAHAM.

*Vendor and Purchaser—Contract for Sale of Land Made with Clerk of Vendor's Agent—Ignorance of Vendor of Position of Vendee—Right to Repudiate on Discovering Truth—Duration of Agency—Termination of Authority—Vendee Acting as Representative of Actual Purchaser.*

Action by George F. McGuire against Mrs. Graham and one Hill for specific performance of an alleged agreement to sell to plaintiff the house and premises 190 King street west, in the city of Toronto. The property was owned by defendant Mrs. Graham.

C. Millar, for plaintiff.

G. H. Kilmer, for defendant Graham.

J. A. Rowland, for defendant Hill.

MACMAHON, J.:—I find that the property in question was, a year and a half ago, placed in the hands of Mr. A. G. Strathy to sell, Mrs. Graham, the owner, stating that she