

of the costs of this motion for judgment. The motion for judgment fails, and in disposing of the question of the costs I ought, I think, to arrive at a conclusion whether in the circumstances the motion was properly made. The object of Rule 603 is no doubt to furnish a summary remedy in simple cases, and to save thereby unnecessary costs; but a resort to that Rule ought not to be had, where it is known to the plaintiff that there is a *bona fide* dispute as to his right to recover. In this case a letter from the defendants' solicitors was read to me on the argument of the motion, but of which I do not find a copy among the papers, which very clearly intimated to the plaintiff that the defendants disputed their right to recover on the note in question and giving also, as I remember, an intimation of the grounds of defence. This defence I will not say is established, but is at all events shewn not to be without some appearance of substance, owing to the apparent discrepancy between the plaintiffs' books and the testimony of Mr. Strickland as to the time when the plaintiffs actually became the holders of the note in question. In these circumstances it does not appear to me that the plaintiffs were right in seeking to obtain judgment under Rule 603, and it would be wholly frustrating the object of that Rule to permit plaintiffs to litigate on a motion under that Rule a case which ought fairly and reasonably to be carried to trial in the usual way. I think, therefore, that the plaintiffs should in any event pay to the defendants their costs of the motion, except the costs of the examination of Strickland, which are to be treated as costs of discovery.

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HON. MR. JUSTICE SUTHERLAND. NOVEMBER 12TH, 1912.

CHAMBERS.

LAND OWNERS LIMITED v. BOLAND AND PAXTON.

4 O. W. N. 305.

*Account—Change of Solicitors—Discontinuance of Action—Motion by Plaintiffs for Order for Account—Costs.*

J. J. Gray, for the motion.

J. G. Smith, for the company.

J. H. Spence, for the defendants.