

The learned Judge said that, as he understood the rule in partnership cases and in all cases of joint ventures, before there could be any division, there must be a charging against those who had not paid in full, of the amount by which they were short. This could be accomplished in various ways, but in all cases the same result would be arrived at. As between those who were the "victims" in this venture, there was no equity arising from the initial fraud, and Rebecca Piper ought to congratulate herself upon having escaped in time. Had the amount in hand been larger, all would have been permitted to share after the equalisation had been effected. On the facts, the money in hand was not enough to produce equality.

The scheme of distribution should be as suggested by the applicant. Costs should be allowed out of the fund.

LOGIE, J.

MARCH 11TH, 1920.

### LANE v. JAVAN.

*Mortgage—Action for Foreclosure—Judgment for Sale—Execution against Lands of Mortgagor—Payment by Purchaser to Execution Creditor—Deduction from Purchase-money—Deduction from Claim under Mortgage—Addition to Amount of Personal Judgment against Mortgagor—Interest—Rate of—Date of Confirmation of Master's Report—Rule 502—Costs.*

An appeal by the plaintiff from the report of the Assistant Master in Ordinary in a mortgage action.

The appeal was heard in the Weekly Court, Toronto.

Helen Beatrice Palen, for the appellant.

No one appeared for the defendant Egbert H. Javan or for William A. Heron, made a party in the Master's office.

E. C. Cattanaach, for the Official Guardian, representing the infant defendants.

LOGIE, J., in a written judgment, said that the plaintiff sued for foreclosure in respect of two mortgages, the one made by Rose Ellen Javan, the owner of the mortgaged premises, then the wife of the defendant Egbert H. Javan, but since deceased, to one George Beggs, and by him assigned to the plaintiff, and the other by the said Egbert H. Javan and Florence Javan, his second wife, to the plaintiff.

Rose Ellen Javan died intestate in March, 1911, seised in fee