

ANGLIN, J.

JULY 29TH, 1904.

WEEKLY COURT.

HOPKINS v. ANDERSON.

*Injunction—Interim Injunction—User of Right of Way—  
Balance of Convenience.*

Motion by plaintiff for an interim injunction restraining defendant from using for other purposes certain land at Niagara Falls over which he had a right of way.

J. J. Foy, K.C., for plaintiff.

H. E. Rose, for defendant.

ANGLIN, J.—Plaintiff's claim involves the construction and possibly the reformation of the deed reserving the right of way in question. Even if he has established a prima facie case for the relief he asks in this action, his material is devoid of any suggestion of irreparable damage, and he has not made out a case for granting an interlocutory injunction upon considerations of comparative convenience. Any injury he may sustain before this action can be tried can be adequately compensated for by pecuniary damages. While the user of the way in dispute by defendant may cause plaintiff some annoyance, and may ultimately be proven to be a violation of plaintiff's legal rights, upon the evidence greater damage is likely to arise to defendant by granting the injunction, in the event of it turning out afterwards to have been wrongly granted, than to plaintiff from withholding it in the event of the legal right proving to be in his favour: *Hamilton and Milton Road Co. v. Raspberry*, 13 O. R. at p. 469. Motion adjourned to the trial.

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WEEKLY COURT.

GOUINLOCK v. BAKER.

*Partnership—Dissolution—Account—Construction of Articles  
—Division of Assets.*

Appeal by defendant from report of Neil McLean, an official referee, to whom this action was referred for trial. Plaintiff sued for a declaration that his partnership with defendant in the profession and business of architects had been dissolved, and for an accounting.

E. F. B. Johnston, K.C., and J. E. Jones, for defendant.

W. M. Douglas, K.C., for plaintiff.