

DIVISIONAL COURT.

OCTOBER 18TH, 1909.

CANADA CARRIAGE CO. v. LEA.

Fraudulent Conveyance—Action to Set aside—New Trial—Evidence—Burden of Proof.

Appeal by the defendant Maud C. Lea from the judgment of ANGLIN, J., of the 4th December, 1908, in favour of the plaintiffs upon the second trial of an action by creditors to set aside as fraudulent and void a conveyance of land and a bill of sale made by the defendant Edward A. Lea to the appellant.

The judgment of the Court of Appeal directing the new trial is reported in 11 O. L. R. 171.

ANGLIN, J., was of opinion that the burden of shewing that the transactions were entered into and carried out in good faith, and that the consideration which the appellant alleged had been paid by her had been actually paid, rested upon the appellant, and that she had not discharged it by the evidence adduced at the trial before him, and he was also of opinion that, if the burden of proof rested upon the plaintiffs, they had successfully impeached the transactions which they attacked, and he entirely discredited the testimony of the appellant's husband.

The appeal was heard by MEREDITH, C.J.C.P., MAGEE and LATCHFORD, JJ.

J. Bicknell, K.C., for the appellant.

G. Lynch-Staunton, K.C., for the plaintiffs.

The judgment of the Court was delivered by MEREDITH, C.J., who said that, in the opinion of the Court, the conclusion reached by Anglin, J., and the reasons which he gave therefor were right and his judgment should be affirmed.

Appeal dismissed with costs.