

these are assets, presently exigible, to the value of \$800 or even of \$400. Costs of this motion to the defendants in the cause. H. M. Mowat, K.C., for the defendants. J. T. White, for the plaintiff.

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STEWART V. DICKSON—DIVISIONAL COURT—JAN. 12.

*Contract—Action to Set aside for Misrepresentations—Absence of Fraud—Reformation of Contract—Terms—Costs.*]—Appeal by the defendant from the judgment of SUTHERLAND, J., 1 O.W.N. 1083, in favour of the plaintiffs, in an action to set aside an agreement, dated the 5th March, 1909, for the transfer of the plaintiff's interest in certain lands to the defendant. The appeal was heard by FALCONBRIDGE, C.J.K.B., BRITTON and RIDDELL, JJ. The Court was of opinion, for reasons stated at length by BRITTON and RIDDELL, JJ., dealing with the facts and evidence, that the agreement could not be set aside except for fraud; that no fraud had been shewn; that, as both the plaintiff and defendant believed that the defendant was to assume the liability of the plaintiffs, under the agreement, the instrument should be reformed accordingly, if so desired; and, the defendant consenting to the reformation, that the appeal should be allowed without costs and the action dismissed without costs; but, if he refused, the appeal should be dismissed with costs. C. A. Moss, for the defendant. H. Cassels, K.C., and R. T. Harding, for the plaintiffs.

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RE ONTARIO SUGAR Co. (McKINNON'S CASE)—MIDDLETON, J.,  
IN CHAMBERS—JAN. 17.

*Company—Winding-up—Contributory—Res Judicata—Leave to Appeal.*] Motion by the liquidator of the company for leave to appeal from the order of MEREDITH, C.J.C.P., ante 496, dismissing the liquidator's appeal from the report of an Official Referee, upon a reference for the winding-up of the company, striking the name of S. F. McKinnon from the list of contributories. MIDDLETON, J., said that upon the argument of the motion for leave he arrived at the conclusion that the case was of sufficient importance and difficulty to warrant an appeal, and that the learned Chief Justice concurred in that view. Leave granted; costs in the appeal. W. N. Tilley, for the liquidator. W. H. Wallbridge, for S. F. McKinnon.