

defendant was not entitled to rank upon the estate of George Dodds, trading under the name of the Prince Piano Co.

J. Bicknell, K.C., for defendant.

W. R. Riddell, K.C., and W. D. McPherson, for plaintiffs.

The judgment of the Court (MEREDITH, C.J., MACMAHON, J., TEETZEL, J.), was delivered by

TEETZEL, J.:—Plaintiffs are creditors of George Dodds, trading under the firm name of the Prince Piano Company, and on 9th June, 1904, obtained judgment against both Dodds and the company for \$1,157, and on the same day an assignment by Dodds for the benefit of creditors was duly filed.

Defendant filed with the assignee a claim for \$4,530.

The plaintiffs having given a notice of contestation of defendant's claim, an order was made by a County Court Judge directing that plaintiffs should be at liberty to institute an action in the High Court against defendant for a declaration that the affidavit and claim of the defendant filed with the assignee were invalid and should be disallowed and set aside; and this action was accordingly instituted.

Defendant was an employee of one W. A. Cockburn, and it was established at the trial that defendant had no personal interest in the claim filed by him, and that the money represented by that claim was the money of Cockburn, and that defendant was only his agent or trustee in the matter. That the amount represented by defendant's claim had been paid by Cockburn, either directly to the Prince Piano Company for the purchase money of its original assets, or to its creditors, was abundantly established at the trial.

The Chief Justice of the King's Bench, who tried the case, reached the conclusion that Cockburn was the "actual owner of the business" of the Prince Piano Company, and directed judgment to be entered declaring that at the time defendant filed the claim in question, he was not a creditor of George Dodds and the Prince Piano Company, or either of them, and further declaring that the claim filed was invalid and void.

It is quite apparent from the observations of the Chief Justice that he was chiefly influenced in his conclusion by