

RIDDELL and ROSE, JJ., concurred.

MEREDITH, C.J.C.P., agreed in the result, for reasons stated in writing.

Appeal allowed.

SECOND DIVISIONAL COURT.

JUNE 22ND, 1917.

*BALDWIN v. O'BRIEN.

Costs—Unnecessary Parties—Claim against Co-defendants—Injury to Reversion—Amendment—Injunction.

By the order of this Court pronounced on the 8th June, 1917, noted ante 256, the plaintiffs' appeal from the judgment of MIDDLETON, J., 10 O.W.N. 304, was allowed and judgment directed to be entered for the plaintiffs with nominal damages and costs on the Supreme Court scale without set-off.

The defendants the North American Life Assurance Company now asked that they be awarded costs of the action and appeal to be paid by their co-defendants, either directly or through the plaintiffs; and the plaintiffs asked leave to amend and to include an injunction in the judgment.

The motions were heard by MEREDITH, C.J.C.P., MAGEE, J.A., LENNOX and ROSE, JJ.

J. A. Paterson, K.C., for the applicants.

E. D. Armour, K.C., and J. W. Carrick, for the plaintiffs.

R. H. Parmenter, for the defendants O'Brien, McLean, and Verral.

The judgment of the Court was read by MEREDITH, C.J.C.P., who said that the applicants in their pleadings supported the plaintiffs' claim against their co-defendants, and set up a claim of their own against their co-defendants; but there was no known right to make such a claim, and nothing came of it; the only issue tried was between the plaintiffs and the other defendants; so the Court was not concerned with any other question, and dealt with none other.

It was contended that the applicants were proper parties to the action; but the learned Chief Justice could not perceive why. The plaintiffs sued, and could sue, only in respect of their reversionary rights and in respect of the infringement of such rights