

\$9,000; and, the bank having insisted upon the representations being made good, and the defendant company, through its officers, having issued stock for the amount of these advances, and the stock having been duly delivered and received by Frank Cromer, A. A. Kromer, and the New York company, the transaction was complete; and so the defence was made out.

The assignment of the 8th June, 1915, to the New York company had not the effect of depriving the defendant company of the right to have it declared that the advances made were capital to be paid for in stock. There was in truth no debt existing between Kromer & Griffin and the defendant company at the time of the assignment. The stock did not issue until after the assignment had been made; but that made no difference. Whatever equities attached, before the assignment, to the so-called indebtedness of the defendant company, attached to it equally in the hands of the New York company, and the company was in no better position than Kromer & Griffin, its assignors. The stock, being an asset of Kromer & Griffin, passed to the New York company, and so to the plaintiff.

The plaintiff was entitled to receive that stock, which was in the hands of the defendant company's solicitor ready to be delivered.

Reference to sec. 49 of the Conveyancing and Law of Property Act, R.S.O. 1914 ch. 109; *McMillan v. Orillia Export Lumber Co.* (1903), 6 O.L.R. 126.

Action dismissed with costs; judgment to be entered upon the stock being delivered to the plaintiff's solicitor.

RIDDELL, J.

MARCH 15TH, 1917

RE PEARCY AND FINOTTI.

Executors and Administrators—Administrator with Will Annexed—Sale of Lands of Testator to Pay Legacies—Absence of Debts—Conveyance—"Persons Beneficially Interested"—Legatees—Dispensing with Concurrence of Persons Entitled to Land Subject to Payment of Legacies—Devolution of Estates Act, R.S.O. 1914 ch. 119, sec. 21 (1), (2).

Application by the vendor in a contract for the sale of land for an order under the Vendors and Purchasers Act declaring that the vendor can by conveyance pass the title to the land notwithstanding an objection by the purchaser.