

CARTWRIGHT, K.C., MASTER:—The action is brought to set aside conveyances of lands from R. Kennedy to his wife the co-defendant as fraudulent. All the transfers will therefore appear recorded in the proper office.

The affidavit of R. Kennedy, as might be expected, states that he has now no documents relating to these transfers as they were all handed to his co-defendant when the conveyances were made to her. If her affidavit is sufficient his will not be objectionable.

But Mrs. Kennedy's affidavit is objected to as not being sufficiently definite because paragraph 4 reads:—

"I have had, to the best of my recollection, but have not now," etc., and paragraph 5 reads: "The last-mentioned documents or as many of them as were in my possession were last in my possession," etc.

It is also objected to this paragraph that the statement "Instrument No. 6 (a mortgage from Purity Spring's Water Co. to deponent) was turned over to the Bank of Toronto some months ago" should have been amplified. Also that paragraph 6 which states that this mortgage is held by the Bank of Toronto as collateral to a loan is not full enough and that it should have been said to whom the loan was made and when and whether or not the mortgage has been assigned to it as it might be necessary to make the bank a party defendant if the transaction was subsequent to the issue of the writ herein.

It was argued in answer to the motion that the affidavits were sufficient on their face and that there was no unwarrantable departure from the form as given under Con. Rule 469 which does not use the word "shall" but says such affidavit "may be according to Form No. 19."

The variations in the present case do not seem to affect the sufficiency of the affidavits considering the nature of the action. See Con. Rule 1224. Any further and more precise information as to the mortgage and the lost deed can be obtained when the defendants are examined for discovery. See as to this *McMahon v. Railway Passengers*, 26 O. L. R. 430.

At present the plaintiff does seem to have all information that is really necessary at this stage at least. The motion is therefore dismissed without prejudice to its being renewed for good cause. Costs will be in the cause.