

J. P. Mabee, K.C., for defendant.

FALCONBRIDGE, C.J., found that the plaintiff was illiterate and incapable of transacting any business of a complicated nature. He did not understand the nature of the agreement or the transaction which it purported to embody, and he had no professional or other independent advice. The agreement was in the highest degree improvident, and was voluntary and without valuable consideration, and therefore could not stand. Judgment for plaintiff as prayed, with six years' interest. No costs.

HOLMESTED, OFFICIAL REFEREE.

JULY 22ND, 1903.

CHAMBERS.

DOMINION SYNDICATE v. OSHAWA CANNING CO.

Judgment—Consent to, Obtained by Misrepresentations—Motion to Stay Proceedings—Motion to Vacate Judgment—Forum.

Motion by defendants to stay proceedings upon a consent judgment on the ground that the consent was induced by misrepresentations.

R. W. Eyre, for defendants.

H. E. Rose, for plaintiffs.

MR. HOLMESTED:—Where a suitor asserts that his consent to a judgment has been obtained by a misrepresentation of fact on the part of the opposite party or his counsel, he must move promptly to vacate the judgment obtained under such circumstances, and a stay of proceedings can only be granted as an incident of such a motion and until the Court or Judge can dispose of it. The application in such a case would seem to be properly made to the Judge who pronounced the judgment complained of, but, if he should be inaccessible, the motion could no doubt be made to the Judge taking vacation business. Motion dismissed, without prejudice to any application that may be made elsewhere, with costs fixed at \$5.

BRITTON, J.

JULY 22ND, 1903.

TRIAL.

MYERS v. RUPERT.

Limitation of Actions—Real Property Limitation Act—Acquiring Title by Possession to Undivided Half of Lot—Oral Admissions of Title—Conveyance—Acknowledgement—Exclusive Possession—Partition.

Action for partition of land, tried at Cornwall.