

The onus is distinctly on defendant to prove the revocation of the contract, and I must hold it to be not proven in fact.

Plaintiff was trustee for and co-owner with John Percy and two others, and even if I had come to a different conclusion on the above question of fact, defendant might have to encounter serious questions of law.

Poucher (another co-owner and *cestui que trust*) swears (and so does John Percy), that he, Poucher, never consented to revoke nor gave John Percy authority to do so.

There will be the usual decree for specific performance with reference to Master as to title, etc., with costs. Thirty days' stay.

---

MASTER-IN-CHAMBERS.

JANUARY 31ST, 1913.

SHEARDOWN v. GOOD.

4 O. W. N. 768.

*Pleading—Reply—Effect of Former Order—Withdrawal of Former Reply.*

MASTER-IN-CHAMBERS, *held*, that former order herein (23 O. W. R. ), gave plaintiff the right to deliver a reply to the amended statement of defence without further order.

On 20th December last plaintiff obtained an order to withdraw his reply and amend statement of claim. This was acted on and defendant delivered an amended statement of defence on 10th January inst. Four days later plaintiff delivered a reply to this statement of defence. Defendant moves now to set this aside as filed too late without an order allowing it to be delivered.

L. V. McBrady, K.C., for motion.

C. W. Plaxton, for plaintiff.

CARTWRIGHT, K.C., MASTER:—When the statement of defence was amended, this, in my view, gave a new right to plaintiff to reply thereto if so advised. Even if this was not so the first reply having been withdrawn by leave, no reply was in effect delivered.

*Wright v. Wright*, 13 P. R. 268, shews that such motions are not to be encouraged. That case was on a motion similar to the one now in question. It must, therefore, be dismissed with costs to plaintiff in any event, as was done in that case.