

Section 12 of the Assignments and Preferences Act, R.S.O. 1914 ch. 134, had no application.

The evidence disclosed nothing done by the plaintiff which would estop him from attacking the assignment to Gundry.

The assignment being void, the sale to Allen fell with it, and Gundry had no right to the proceeds.

The moneys in the hands of Gundry should be paid into Court, there to remain subject to the repayment of \$1,300 with interest from the 6th April, 1918, to the firm of McFarlane & Maize; that sum to be available, first, in or towards payment of the just claims of the bona fide creditors of the firm, excluding the claim of Allen on the note, and, secondly, in or towards satisfaction of the lien of the plaintiff established in *Maize v. McFarlane*, ante.

The plaintiff is entitled to damages against Allen in respect of Allen's carrying on the business of the firm since the purchase, and such damages are to form a portion of the assets of the firm available for their creditors; the balance of the money paid into Court is to be retained to meet the claims of creditors, to the extent of the damages found; and the plaintiff is to be allowed to amend his statement of claim accordingly.

Reference to the Master at Goderich to fix the amount of the damages, and wind up the partnership, and appoint a receiver if desired.

Damages were not sought against Gundry; but, as he proceeded with the assignment, he should be liable with the other defendants for the plaintiff's costs.

There should be an injunction restraining the defendants and each of them from dealing with the assets of the firm.

The plaintiff's costs should be payable by all the defendants.

SUTHERLAND, J.

JULY 11TH, 1919.

RE RUSSELL AND TORONTO SUBURBAN R.W. CO.

Railway—Expropriation—Taking Part of Farm—Compensation—Value of Land Taken—Damages for Severance and Injurious Affection of Land not Taken—Award of Arbitrators—Appeal—Reasons for Award Prepared after Award Made—Benefit to Land by Railway—Evidence to Sustain Award—Refusal to Interfere.

An appeal by the railway company from the award of arbitrators appointed to determine the compensation to be paid to William Russell for a part of his farm taken for the company's railway and the loss and damage caused to the remainder of the farm by the severance, injurious affection, etc.