

them and each of them, such execution in the case of Sara Moffet being limited to her separate estate."

Flavien Moffet and Sara Moffet must pay the costs of plaintiff of this issue and all his costs which I have power to dispose of. Le Temps Publication Company, identified as the partnership consisting of Flavien Moffet and Sara Moffet, had no interest in this issue, and no status to entitle it to costs of appearing by independent counsel.

ANGLIN, J.

JANUARY 3RD, 1905.

TRIAL.

GOLD LEAF MINING CO. v. CLARK.

Company—Contract to Sell Shares—Consideration—Breach—Proposal—Acceptance—Seal—Mining Company—Discount on Shares—By-law—Release—Damages.

Action for damages for breach of an agreement.

Glyn Osler, Ottawa, for plaintiffs.

A. B. Aylesworth, K.C., and M. J. Gorman, K.C., for defendants.

ANGLIN, J.—Plaintiffs are a company incorporated under the Ontario Mining Companies Incorporation Act. On 31st October, 1899, through the instrumentality of A. T. Mohr, the general manager of plaintiffs, the defendants, Clark, Ryan, and Darby, entered into an arrangement whereby they undertook with the company "to sell or cause to be sold," within three months, 100,000 shares of its stock, having a par value of \$1 per share, at a price netting the company not less than 5 cents per share, no charge to be made for commission or expenses. The consideration for this undertaking was a donation by Mohr to defendants of 30,000 shares of paid-up stock held by him, their immediate appointment to the directorate of the company, and the arrangement of all existing preferential claims against it, "so that the same shall stand only as an unpreferred debt of the company for which the directors shall not be personally liable by virtue of their position as directors." A memorandum of this "agreement" signed by the three defendants was submitted to a meeting of the directors held on 3rd November, and it is in evidence that it was then "accepted" on behalf of the company. The three