

The Ontario Weekly Notes

VOL. XIII. TORONTO, JANUARY 4, 1918. No. 16

APPELLATE DIVISION.

FIRST DIVISIONAL COURT.

DECEMBER 26TH, 1917.

*TAYLOR v. DAVIES.

Assignments and Preferences—Assignment for Benefit of Creditors—Land of Insolvents—Release of Equity of Redemption by Assignee to Mortgagee—Inspector of Insolvent Estate—Fiduciary Position — Trustee — Constructive Trustee — Limitations Act—Application to Constructive Trust—Secs. 2 (a), 5, 32, 47 (2)—Bar to Action—Release Construed as Assent by Assignee to Retention by Creditor of his Security—Assignments and Preferences Act, R.S.O. 1897 ch. 147, sec. 20 (4).

Appeals by the defendants from the judgment of LENNOX, J., 39 O.L.R. 205, 12 O.W.N. 83.

The appeal was heard by MEREDITH, C.J.O., MACLAREN, MAGEE, HODGINS, and FERGUSON, JJ.A.

I. F. Hellmuth, K.C., for the appellants the executors of Robert Davies.

W. N. Tilley, K.C., and R. H. Parmenter, for the appellant Clarkson.

Wallace Nesbitt, K.C., and Christopher C. Robinson, for the plaintiff, respondent.

MEREDITH, C.J.O., read a judgment in which he said that the judgment of the trial Judge was based upon the proposition that Robert Davies was an express trustee, or at all events, owing to

* This case and all others so marked to be reported in the Ontario Law Reports.