

The case is certainly, as was said by Riddell, J., one of great suspicion. Discarding the evidence of the family of David, as I think must be done, there is the evidence of several witnesses, Mr. Heaney, Mr. Bradley, Mr. Comfort, especially the latter, all tending towards the same conclusion that not long before the organization of the joint stock company, the execution debtor was in possession of the goods now in question, apparently as owner, that he was holding himself out as the proprietor of the business and the owner of the goods, and that upon their removal he placed them in charge of the witness Comfort as his agent, that Comfort afterwards left because of interference by Albert David, and that the latter, whom Comfort left in charge, afterwards disclaimed the business, saying it belonged to his brother Abraham, and subsequently on an execution in the Division Court against the latter coming in, abandoned his former disclaimer, and claimed the business as his own.

The bill of sale under which the claimants alone pretend to make title is only from Rashada and Albert. Abraham is no party to it. And it follows that if the goods really belonged to Abraham, and not to Rashada, his wife, or Albert his brother, the claimants never had any title to them.

Under all the circumstances I am wholly unconvinced that the Divisional Court erred in the conclusion arrived at. The case looks to me very much like an attempt by the three Davids to put the goods in such a position that the creditors of Abraham could not reach them. The judgment now appealed against, thwarts that intention, and we are not, I think, called upon under the circumstances to be astute to find reasons for reversing it.

I would dismiss the appeal with costs.

HON. MR. JUSTICE MACLAREN:—I agree.

HON. MR. JUSTICE MEREDITH:—The judgment pronounced at the trial was, in my opinion, quite right; and the reversal of it a mistake caused mainly by overlooking two of the most material facts of the case, facts which are incontrovertable; I mean the fact that the defendants are a legal entity entirely separate and distinct from any of the Davids; and the fact that the defendants had the property in and the possession of the goods in question at the time of the seizure.

The defendants are a duly incorporated company; Abraham David is, as far as the evidence shews, no more than a mere shareholder in the company.