

JUNE 20TH, 1913.

LONG v. SMILEY.

Brokers—Dealings with Customers—Purchase and Sale of Shares in Mining Companies—Duty of Brokers—Fulfillment—Keeping Speculative Shares Ready for Sale—Allotment of Particular Certificates in Brokers' Books—Sale by Brokers without Regard to Allotment—Conversion—Agreement—Acquiescence—Costs.

Appeal by Georgina Long, the plaintiff in a High Court action brought against a firm of brokers to recover moneys entrusted to them for investment in mining stocks, from the judgment of RIDDELL, J., ante 229, dismissing the action.

The judgment of RIDDELL, J., dealt also with a County Court action brought by Kate Long, the sister of Georgina Long, against the same firm of brokers; but in the County Court action there was no appeal.

The plaintiff's appeal was heard by MULOCK, C.J.Ex., CLUTE, SUTHERLAND, and LEITCH, JJ.

A. J. Russell Snow, K.C., for the plaintiff.

T. N. Phelan, for the defendants.

CLUTE, J.:—The defendants, as brokers, purchased for the plaintiff certain mining stocks, which were paid for in full at the time of purchase. A bought note was, in each case, sent to either the plaintiff, Georgina Long, or her sister, Kate, and the number of the scrip was entered opposite the name of the plaintiff or her sister in the defendants' stock-book.

Subsequently there appear entries in the defendants' stock-book shewing that this particular scrip was sold, at a profit, and passed out of the defendants' hands.

The plaintiff, Georgina Long, now seeks to recover the proceeds of what she claims to have been her shares or scrip. The defendants answer, in effect, that they did not sell her shares, as they were not authorised so to do, but that they sold certain shares for other principals, and that the particular scrip representing her shares were handed out to such purchasers, the defendants always retaining sufficient scrip on hand, fully paid-up and of the same issue, to meet the plaintiff's demand for the same when made.