

THE

# ONTARIO WEEKLY REPORTER.

(TO AND INCLUDING MARCH 8TH, 1902.)

VOL. I.

TORONTO, MARCH 13, 1902

No. 9.

[MARCH 4TH, 1902.]

DIVISIONAL COURT.

BIRKBECK LOAN CO. v. JOHNSTON.

*Building Society—Shares—Advance on—Trust—Notice—Mortgages—  
Consolidation—Evidence—Examination for Discovery.*

The plaintiffs are a building society incorporated under R. S. O. 1887 ch. 169. The defendant Mrs. Amelia Johnston was on the 20th July, 1897, the holder of the following stock in the society:—

- 6 shares permanent stock A., in her own name.
- 4 shares instalment stock C., "in trust."
- 1 share instalment stock C., "in trust for Miss Amelia Johnston."
- 1 share instalment stock C., "in trust for Miss Marjorie Johnston."

Some shares of instalment stock B., of little value.

On the 20th July, 1897, Mrs. Johnston executed a transfer to the plaintiffs' treasurer, as security for an advance of \$700 then made to her, of the following: "All my stock in the said company, consisting of shares of classes A., B., and C. stocks held by me in the said company." On the 1st October, 1897, she obtained a further advance of \$600 from the company, and transferred to the treasurer as security "six shares of class C. instalment stock." It was admitted that the six shares intended to be transferred were the same six shares as those standing in her name as trustee as above mentioned. As further security for this advance, she executed on the same day a mortgage to the company upon lands in Strathroy and Toronto, in which it was recited that she was the owner of six shares of the capital stock of the company, and that the company had agreed to advance to her \$600 upon such shares, with the mortgage as further security.

Afterwards, the defendant Frank K. Johnston bought from his mother, the defendant Mrs. Amelia Johnston, the Strathroy property, assuming the mortgage for \$600 and paying some money in upon the six shares of C. stock.