

the defendants' farm the plaintiffs' agent called there to take settlement for it. Defendants then signed the notes asked for and the agent demanded a lien on the farm as security for the notes, and, relying on the representations of both defendants then made, that the wife owned the land, accepted a lien on the land for the amount, signed by Mrs. Hornby in the presence of her husband, and did not insist, as he might have done, that the husband should also sign it. It appeared that the title to the land was then actually in the husband and had remained so ever since. The chief contention at the trial was as to whether the plaintiffs were entitled to a lien on the land for the debt as against the defendant Charles Hornby.

Held. 1. There was ample consideration for the giving of the lien as the plaintiffs might have removed the machinery and refused to go on with the transaction if the lien on the land had been refused.

2. The defendant Charles Hornby was estopped by the representations he had made, and subsequently repeated, from denying that the land in question was his wife's property and from claiming it as his own as against the plaintiffs. *Freeman v. Cooke*, 2 Ex. 654, followed.

Judgment, declaring that the lien in question forms a valid charge on the land referred to for the amount of the plaintiffs' claim and costs of suit.

Howell, K.C., and *Mathers*, for plaintiffs. *Aikins*, K.C., and *McLeod*, for defendants.

Province of British Columbia.

SUPREME COURT.

Full Court. RICHARDS v. WILLIAMS. [Jan. 11

Practice—Judgment obtained by fraud—Fresh action to set aside judgment—Pleading—Fraud—Allegation of.

Appeal from order of DRAKE, J., dismissing plaintiff's action.

Plaintiff sued to set aside a judgment recovered against him and alleged in the statement of claim "the plaintiff believes and charges the fact to be that no service of the writ of summons in the said action was ever made upon him, and that the said liability of the plaintiff to defendants and co-indorser was satisfied and discharged either prior or subsequent to the institution of said action as defendants well knew at the time."

Held. dismissing the appeal—