

FALCONBRIDGE, C.J.

DECEMBER 9TH, 1902.

TRIAL.

COTÉ v. MELOCHE.

Mortgage—Default of Payment of Interest—Possession.

The husband of the plaintiff had, before he died, in order to befriend defendant, taken a deed of the land in question in his own name, and executed a mortgage back for part of the purchase money. The mortgagee died, and the plaintiff, not as administratrix of her husband's estate, but out of her own moneys, bought the mortgage and took an assignment thereof from the executors of the mortgagee, who had threatened her with legal proceedings.

The plaintiff now claimed possession of the land.

A. H. Clarke, K.C., for plaintiff.

D. R. Davis, Amherstburg, and F. H. A. Davis, Amherstburg, for defendant.

FALCONBRIDGE, C.J., said that it was very unfortunate that the matter could not have been accommodated without costly litigation. No interest having been paid by defendant since March, 1901, the plaintiff was entitled to possession.

Judgment for plaintiff without costs.

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C. A.

BERTUDATO v. FAUQUIER.

Master and Servant—Injury to Servant—Workmen's Compensation Act—Railway Contractors—Sub-contractors—Question of Liability—Ruling of Trial Judge—Questions for Jury—New Trial.

Appeal by defendant from judgment of LOUNT, J., in favour of plaintiffs upon the findings of a jury, for \$900 and costs in an action under the Workmen's Compensation Act and at common law. The plaintiff, who was a workman upon railway construction work, was injured by a stone thrown by a blast. The chief question in the appeal was whether the plaintiff was in fact employed by defendants, who were the principal contractors, or by independent sub-contractors.

The appeal was heard by OSLER, MACLENNAN, MOSS, GAKROW, JJ.A.

E. E. A. DuVernet, for appellants.

A. H. Marsh, K.C., and W. R. Wadsworth, for plaintiff.

On 24th November the Court intimated that the appeal would be allowed and a new trial directed.