

liquidation. After the company was formed in pursuance of the original agreement between the parties, stock was issued to each of them as fully paid up according to the accounts for which they respectively subscribed, and in the winding-up proceedings they were respectively placed on the list of contributories for the total amount of said stock. The ruling of the local master in this respect was affirmed by a judge of the High Court and by the Court of Appeal.

*Held*, reversing the judgment of the Court of Appeal, Davies and Nesbitt, JJ., dissenting, that as all the proceedings were in good faith, and there was no misrepresentation of material facts, and as H. and S. had paid full value for their shares, the agreement by which they received them as fully paid-up was valid, and the order making them contributories should be rescinded.

*Held*, per Davies and Nesbitt, JJ., that as they did not pay cash or its equivalent for any portion of the shares as such the order should stand.

*Held*, also, that it is the duty of the Supreme Court, if satisfied that the judgment in appeal is erroneous, to reverse it even when it represents the concurring view of three, or any number of successive Courts before whom the case has been heard.

*Aylesworth*, K.C., and *Robertson*, for appellant. *Haight*, for respondent.

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Ont.]

McVITY v. TRANOUTH.

[June 26.

*Limitation of actions—Unregistered deed—Subsequent registered mortgage—Possession—Right of entry.*

R. T. in 1891, about to marry W. T. and wishing to convey to him an interest in her land, executed a deed of the same to a solicitor who conveyed it to her and W. T. in fee. The solicitor registered the deed to himself but not the other, forging on the same a certificate of registry, and he, in 1895, mortgaged the land and the mortgage was duly registered. R. T. and W. T. were in possession of the land all the time from 1891 and only discovered the fraud practised against them in 1902. In 1903 the mortgagee brought action to enforce his mortgage.

*Held*, affirming the judgment of the Court of Appeal (9 Ont. L.R. 105) Davies and Nesbitt, JJ., dissenting, that the legal title being in the solicitor from the time of the execution of the deed to him the statute of limitations began to run against him then, and the right of action against the parties in possession was barred in 1901.