

recover, on the theory that, the shares not having been delivered, there had been failure of consideration.

The plaintiff's claim had as little foundation in law as in morals, and was rightly dismissed.

RIDDELL and LATCHFORD, JJ., agreed with MIDDLETON, J.

MEREDITH, C.J.C.P., read a dissenting judgment.

Appeal dismissed with costs (MEREDITH, C.J.C.P., dissenting).

SECOND DIVISIONAL COURT.

JANUARY 2ND, 1920.

MARIER v. MARIER.

Husband and Wife—Alimony—Cruelty—Condonation—Wife Leaving Husband—Offer of Husband to Receive her back—Evidence—Injury to Health—Apprehension of Danger—Costs.

Appeal by the defendant from the judgment of SUTHERLAND, J., at the trial, in favour of the plaintiff in an action for alimony, awarding her \$6 a week, with costs.

The appeal was heard by MEREDITH, C.J.C.P., RIDDELL, LATCHFORD, and MIDDLETON, JJ.

A. Lemieux, K.C., for the appellant.

N. Champagne, K.C., for the plaintiff, respondent.

LATCHFORD, J., read a judgment in which he said that two or three acts of physical violence on the part of the defendant were proved to the satisfaction of the trial Judge. The last and most serious occurred in March, 1918, when an attempt was made to tie the plaintiff to a chair and her arm was injured. That she was at the time in such a fit of ill-temper that the defendant and his children believed her to have lost her reason was not open to doubt. The hurt which she sustained was due to their efforts to restrain her from smashing crockery and furniture, some of which was owned by herself and some by her husband.

For more than 6 months after this incident, the plaintiff continued to live with the defendant—though not indeed very happily. Disputes arose from time to time, and there were exchanges of terms about equally uncomplimentary. It was not, however, until the plaintiff had acceded to her husband's request to release her interest in part of his farm which he had conveyed