

THE
ONTARIO WEEKLY REPORTER.

(TO AND INCLUDING SEPTEMBER 19TH, 1903.)

VOL. II. TORONTO, SEPTEMBER 24, 1903. No. 31

FERGUSON, J.

SEPTEMBER 14TH, 1903.

CHAMBERS.

STANDARD LIFE ASSURANCE CO. v. VILLAGE OF
TWEED.

Summary Judgment—Defence to Action—Municipal Debentures—By-law—No Provision for Payment of Principal—Application of Special Statute.

Appeal by plaintiffs from order of Master in Chambers (ante 731) dismissing application by plaintiffs for summary judgment under Rule 603 in an action to recover the amount due upon certain debentures issued by defendants and purchased by plaintiffs.

D. L. McCarthy, for appellants.

C. W. Craig, Tweed, for defendants.

FERGUSON, J.— . . . I think the provisions of sec. 432 have direct application to the case and to this motion. The interest on the debentures was paid for a long series of years, and there were no matured debentures on which the principal would have been paid. There were no debentures falling due till the debentures sued on matured. These matured at the same time, and to pay the principal on them would end the whole of the difficulty, for this is the very thing the plaintiffs sue for. I cannot see how the words in the section "and the principal of the matured debentures" can have any application or force, in the circumstances and facts of the case, and I think the by-law and the debentures sued on are declared to be valid and binding upon defendants. I am unable to see how there can be any substantial defence to the action, and I think the order asked for should go. . . .