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CARTWRIGHT, MASTER.

OCTOBER 7TH, 1907.

CHAMBERS.

WILLIAMS v. CUMMING.

*Summary Judgment—Promissory Note— Action on—Defence—Indorsement by Defendants before Payees of Note—Authority of Previous Decisions.*

Motion by plaintiffs for summary judgment in an action on a promissory note payable to plaintiffs and indorsed by defendants before delivery to plaintiffs, by whom it was afterwards indorsed without recourse.

W. E. Middleton, for plaintiffs.

Featherston Aylesworth, for defendants.

THE MASTER:—It was not denied that defendants might escape liability if *Canadian Bank of Commerce v. Perram*, 31 O. R. 116, is still binding. But it was said that this case had been overruled by *Robinson v. Mann*, 31 S. C. R. 484.

On looking at the report of the latter case in 2 O. L. R. 63, it appears that the doctrine of the earlier case was affirmed there, though the case was not decided on that ground. In the Supreme Court the appeal was dismissed, though the Court pointedly declined to accede to the law as laid down in the Perram case. But the appeal was not dismissed on that ground, as it would probably have been if the indorser G. T. Mann had been seeking to defeat the plaintiff's claim on the authority of the case in 31 O. R. 116. There the assignee of the insolvent plaintiff was seeking to have a chattel mortgage given to the defendant set aside, on the ground