

bracing certain lands owned by the plaintiffs in Alberta, Assiniboia, and Saskatchewan, for securing payment to the mortgagees of the sum of \$100,000 on 1st May, 1898, with interest at the rate of $6\frac{1}{4}$ per cent. per annum, payable in advance half-yearly, on the first days of November and May, with a proviso that the interest should be 6 per cent. if paid within 15 days after the same matured. The plaintiffs alleged that the power to borrow moneys was restricted to 75 per cent. of the paid up capital stock, and that at the date of the mortgage the paid up capital stock amounted to no more than \$90,970, and they claimed that the mortgage should be declared void in so far as it exceeded in amount 75 per cent. of that sum, and to that extent be cut down as a security upon the lands comprised within it.

Another purpose was to void and set aside a deed of transfer dated 31st May, 1900, executed under the plaintiffs' seal and by the hands of John J. Withrow, their president, and the defendant John T. Moore, their managing director, whereby the plaintiffs transferred to the defendants Mary Isabel Leadlay and Percy Leadlay, as executrix and executor of the last will and testament of Edward Leadlay, all the plaintiffs' interest in the lands situate in Alberta, comprised within the above mentioned mortgage, or so much of them as remained undisposed of, and also two other deeds of transfer dated 10th May, 1900, executed under the plaintiffs' seal and the hands of the said president and managing director, whereby the plaintiffs transferred to the same defendants all the plaintiffs' interest in the lands situate in Assiniboia and Saskatchewan (respectively, comprised within the mortgage, or so much thereof as remained undisposed of.

The plaintiffs alleged that the execution of these instruments was induced and procured through fraud and collusion between the defendants Leadlay and John T. Moore, and that they were given without the plaintiffs' authority and without consideration to the plaintiffs.

Another purpose of the action was to declare void, as against the plaintiffs, certain agreements entered into between the defendants the Leadlays and John T. Moore, and assigned to and held by the defendant Annie A. Moore, dealing with the disposal of the lands comprised in the three instruments of transfer, or to declare the last named de-