

all the questions in dispute will be determined in the action first tried, but I cannot make the order asked, upon the material before me.

Motion dismissed. Costs in the cause—in this action.

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SUPREME COURT OF ONTARIO.

SECOND APPELLATE DIVISION.

FEBRUARY 20TH, 1914.

HOLDEN v. RYAN.

5 O. W. N. 890.

*Judgment—Contempt of Court — Motion to Commit—Building Restrictions—"One Building"—Amendment of Plans and Structure—"Front" of Building—Reference to Architect Appointed by Court—Undertaking to Obey his Report—Dismissal of Motion—Terms.*

Motion to commit defendant for breach of the injunction herein granted by TEETZEL, J. (22 O. W. R. 767). Since that judgment defendant had altered her walls, and placed a permanent doorway in the vertical wall formerly dividing the building.

BRITTON, J. (23 O. W. R. 961) *held*, that the building was no longer two buildings, and that therefore the motion must be dismissed with costs.

*Ilford Park Estates v. Jacobs*, [1903] 2 Ch. 522, 526, referred to. SUP. CT. ONT. (2nd App. Div.) ordered that if defendant would file an undertaking in one week to follow the plans of an architect to whom the matter had been referred by the Court and pay the costs of the motion and appeal, including the architect's fees, the motion should be dismissed, otherwise it was allowed with costs.

Appeal by the plaintiff from the order of HON. MR. JUSTICE BRITTON, 23 O. W. R. 961, dismissing a motion by the plaintiff to commit the defendant for contempt of Court for disobedience to a judgment.

The appeal was heard by HON. SIR WM. MULOCK, C.J. Ex., HON. MR. JUSTICE CLUTE, HON. MR. JUSTICE RIDDELL, HON. MR. JUSTICE SUTHERLAND, and HON. MR. JUSTICE LEITCH.

A. C. McMaster, for the appellant.

J. R. Roaf, for respondent.

Upon the argument of the motion their Lordships were of opinion that the plaintiff was proceeding in disobedience of the injunction granted and referred the matter to Mr.