

Court. Then followed directions as to proceedings which should be taken for the trial of that issue.

The money was paid into Court. The plaintiffs delivered their statement of claim, pursuant to the directions contained in the order. The defendants Jeffery and Moore, in their statement of defence, expressly admitted: (1) that the purchase-price of the mining property in question was \$500,000, and that the sum of \$50,000 was added to the same in order to provide for payment of a further \$50,000 commission to the defendant Eames; (2) that they had satisfied themselves that the sum of \$50,000 was improperly added to the true purchase-price, without the consent or knowledge of the plaintiffs; and these defendants made no claim as against the plaintiffs to the money standing in Court in this matter. The defendant Eames, by his statement of defence, simply denied all allegations in the statement of claim. He did not appear at the trial.

The defendants Crane, Otis, Morse, Bruce, and Cotton, in their statement of defence, alleged that the defendant Moore was their agent and instructed by them to endeavour to effect a sale of the Silver Cliff mine property to the plaintiffs. They alleged a bona fide sale by Moore to the plaintiffs, through Eames, the agent of the plaintiffs, and that the plaintiffs now held the \$25,000, part of the commission, in trust for Moore, and desired to get the \$50,000 for the purpose of benefitting themselves and Moore, and in fraud of those defendants.

The issue was tried before BRITTON, J., without a jury.

M. K. Cowan, K.C., and G. H. Sedgewick, for the plaintiffs.

I. F. Hellmuth, K.C., and G. B. Balfour, for the defendants Crane and Cotton.

BRITTON, J. (after setting out the facts):—Upon the evidence, the allegations in the plaintiffs' statement of claim are substantially established. Angus W. Fraser was the solicitor for the owners of the mine, and acted for them in the transactions now under consideration. An option had been given to the defendant Otis to purchase—negotiations for this had been carried on by the defendant Moore. This option expired—the owners would not renew it. Then negotiations commenced between Mr. Fraser, acting for the owners, and Moore and Jeffery. About the 27th May, 1909, Moore made it plain that he had interested these plaintiffs—or Peacock, one of the plaintiffs—in this property, and as possible purchasers or a possible purchaser of it. It is quite clear that Moore's dealings were with Eames, the trusted private secretary of Peacock.