

HON. MR. JUSTICE LENNOX.

DECEMBER 15TH, 1913.

SMITH v. WILSON.

5 O. W. N. 550.

*Master—Appeal from Report of—Vendor and Purchaser—Partnership—Execution Creditors—Value of Property—Profits—Registration of Deed—Costs—Reference Remitted.*

LENNOX, J., in an appeal from the report of the Local Master at Ottawa in a vendor and purchaser matter, made certain findings of fact and remitted the matter to the Local Master for further report.

Appeal by purchaser in a Vendors and Purchasers matter from the report of the local Master at Ottawa.

J. E. Caldwell, for purchaser.

W. C. McCarthy (by order of the Master), for execution creditors.

Magee, also appeared for certain creditors.

HON. MR. JUSTICE LENNOX:—The matter comes before me by way of appeal from the report or judgment of the local Master.

I find and declare that the property in question is partnership property, that the vendor and purchaser each holds his share subject to the mortgage, that subject to the mortgage each party is entitled to a lien upon the property and to be repaid whatever sum he put into it for building, improvements, upkeep, betterments, taxes or other outlays with interest, and that the difference between the aggregate of these sums and the value of the property is the net profits made by the vendor and vendee by the purchase and handling of the property. I find, too, and declare, that neither party is entitled to any allowance for his labour, management or care upon or in connection with the property, that the proposed deed from the vendor to the purchaser has not been delivered, that the four execution creditors have a lien upon, and are entitled to participate in the vendor's share of the net profits and in the moneys, if any, which he contributed from his own means as aforesaid; but that the sheriff cannot realize upon the vendor's interest, and it cannot be made available without the assistance of the Court; and with the consent and approval of all parties, I declare the total value of the property to be the sum of \$5,000.

In order, therefore, to avoid unnecessary expense and with the consent of counsel aforesaid, I order and direct that the