

Lighterage Co. v. London Graving Dock Co., [1902] 2 Ch. 557, 573.

GARROW, J.A., concurred.

MACLAREN, J.A., agreed in the result.

MAGEE, J.A., also agreed in the result, for reasons stated in writing.

Appeal allowed.

HIGH COURT DIVISION.

SUTHERLAND, J.

JULY 4TH, 1916.

PEARSON v. TIBBETTS AND McKENZIE.

Promissory Note—Joint Maker for Accommodation—Surety—Collateral Security—Chattel Mortgage—Failure to Keep Renewed as against Creditors—Evidence—Absence of Prejudice—Delay and Negligence of Holder of Note—Time Given to Principal Debtor—Absence of Binding Contract.

Action to recover the balance due upon two promissory notes; tried without a jury at Fort Frances.

A. G. Murray, for the plaintiff.

A. D. George, for the defendant McKenzie.

SUTHERLAND, J., read a judgment in which he stated the facts. On the 5th October, 1909, the defendants made three joint and several promissory notes in favour of the plaintiff, to whom the defendant Tibbetts was then indebted. The plaintiff was aware that the defendant McKenzie was an accommodation maker. As collateral security, the plaintiff, at the same time, took from the defendant Tibbetts a chattel mortgage on his household furniture and effects. The defendant Tibbetts paid the first note. The second and third notes were each for \$380.83, and became due on the 5th April and 5th July, 1910. The defendant Tibbetts made payments on account of principal and interest, the last payment (interest) being on the 16th April, 1914. In this action, begun on the 20th October, 1915, the plaintiff claimed \$836.16 for principal and interest. A renewal statement in respect of the