

Chancery upon the report of a Master:" Holmested, pp. 232-3, citing *Murphy v. Corry* (1906), 12 O.L.R. 120, and other cases.

There should be judgment for the plaintiff as provided for by the report of the Referee, together with the costs directed to be paid by the Divisional Court and the Supreme Court of Canada, and the costs of the motion.

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MIDDLETON, J.

APRIL 30TH, 1920.

HUNT v. HUNT.

*Husband and Wife—Separation Agreement—Action by Wife to Set aside—Improvidence—Lack of Independent Advice—Alimony—Desertion—Quantum of Allowance—Costs.*

Action by a married woman against her husband to set aside a separation agreement made on the 7th November, 1919, and to recover alimony.

The action was tried without a jury at Brantford.

S. Alfred Jones, K.C., for the plaintiff.

W. S. Brewster, K.C., for the defendant.

MIDDLETON, J., in a written judgment, said that the defendant went overseas in 1916, and on his return in 1919 found that his wife had been unfaithful. She admitted her guilt, and after much discussion there was a reconciliation and condonation, and he took her to live with his parents. Things did not go well, and, as a result of repeated quarrels, she left him, and he refused to take her back. She instituted police court proceedings, and he advertised his refusal to be responsible for her debts.

On the 7th November, 1919, an arrangement was made by which she agreed to drop the police court proceedings and to consent to a separation agreement, stipulating for the custody of her child (by her husband) and an expected unborn child, in consideration of a payment to her of \$5 a week from that time on until six weeks after the birth of the expected child. The agreement was executed accordingly.

There was no fraud or duress or misrepresentation as to the effect of the agreement; but, in the circumstances disclosed, it ought not to stand. The wife was impecunious, expecting the birth of another child, and anxious to keep her elder child. She was ashamed of the situation and afraid of the revelation of her misconduct in the police court. The bargain made released her