

Full Court.]

CRAVSTON v. MASSEY-HARRIS CO.

[March 5.

County Courts—Jurisdiction—Extent of—Equitable relief.

County Court appeal. The plaintiff sued to recover back money paid by him to the defendant company under stress of a seizure of his crop by the bailiff, and for damages for trespass to goods. It was shown at the trial that the plaintiff had given the company by mistake a chattel mortgage for an amount larger than he really owed them, and that at the time the bailiff made his demand the plaintiff really owed the company nothing; that the plaintiff gave a bond for the forthcoming of the goods to induce the bailiff to withdraw and subsequently sold enough of the grain and paid the amount demanded. Plaintiff had a verdict for the amount overpaid and \$10 for the trespass.

Held, that County Courts in Manitoba have no jurisdiction to rectify written instruments for fraud or mistake or to entertain an action for the recovery of money paid under the strict terms of such an instrument. S. 60 of the County Courts' Act only gives jurisdiction in personal actions, and the limitations as to amounts show that purely money demands are contemplated. If equitable claims are to be entertained at all they must be equitable debts or demands of cognate character to legal ones coming under the terms used. The plaintiff was liable at common law for the full amount of the mortgage he had signed and sealed. A recital in it estopped him and he could have had no defence to an action on the covenant for the full amount, and the license to seize the grain would have been an effectual defence to any action of trespass. Money paid under such a contract could not have been recovered back at law; and the County Court, having to right no rescind or rectify the chattel mortgage or to declare it satisfied, could not exercise an equitable jurisdiction to adjudge re-payment of the money: *Foster v. Reeves* (1892), 1 Q.B. 255. The provision in section 70 of "The County Courts' Act," that the judge "may make such orders, judgments or decrees thereupon as appear to him just and agreeable to equity and good conscience," does not authorize him to give the relief that the plaintiff would be entitled to in a court possessing general equitable jurisdiction. It and section 71 come under the heading "Practice and Procedure," and only apply to orders and decrees in actions within the jurisdiction of the court as defined by section 60, and deal only with the practice and procedure in such actions, and with the manner in which the judges are to dispose of such actions at the trial: *Ahrens v. McGilligat*, 23 U.C.C.P. 171. The jurisdiction of the County Court being confined to personal actions which constitute one of the three divisions into which civil actions maintainable in the old common law courts were divided, and it being a rule of construction that when technical words are used in reference to a technical subject, they will prima facie be understood to be used in the sense they have acquired in that subject, it is open to question if the legislature intended to give jurisdiction to entertain any causes of action but such as might have been sued for as personal actions in the courts of common law; and at all events the words do not include a claim to reform or cancel a deed for fraud or mistake. Appeal allowed with costs, and non-suit entered in the County Court.

Howell, Q.C., for plaintiff. *Culver*, Q.C., for defendant.