

have made inquiry—he ought to have been suspicious—he ought to have gone into the transaction with the company and ascertained its true nature. Mala fides could not be established in this way, and it was not credible that the advance was made with any suspicion that the notes were not genuine and representing a real debt.

There was no evidence to shew that the defendants did not in truth owe the money as between themselves and the drawer of the bill. Thorne and Mills might be sureties only for Kilpatrick, but all this was left to surmise.

There should be judgment for the plaintiffs as prayed.

FALCONBRIDGE, C.J.K.B.

SEPTEMBER 28TH, 1918.

McTAVISH v. CORBET FOUNDRY AND MACHINE
CO. LIMITED.

Contract—Delivery of Company-shares—Breach—Delay—Action by Assignee of Purchaser—Right to Sue—Conveyancing and Law of Property Act, sec. 49—Addition of Assignor as Plaintiff—Readiness to Deliver Stock—Damages—Interest—Costs.

Action by the assignee of one Cole for damages for breach of a contract for the delivery of shares of the capital stock of the defendants, an incorporated company.

The action was tried without a jury at Owen Sound.

A. L. Fleming, for the plaintiff.

G. W. Mason and J. G. Barlow, for the defendants.

FALCONBRIDGE, C.J.K.B., in a written judgment, said that the assignment to the plaintiff of the rights of J. H. Cole was made in good faith. Cole had a quasi equity of redemption in the proceeds, but the assignment was not champertous. The plaintiff, under sec. 49 of the Conveyancing and Law of Property Act, R.S.O. 1914 ch. 109, had the right to sue: see *Colville v. Small* (1910), 22 O.L.R. 1, and cases cited; *Burlinson v. Hall* (1884), 12 Q.B.D. 347; *Tancred v. Delagoa Bay and East Africa R.W. Co.* (1889), 23 Q.B.D. 239.

At the trial, Cole stated his willingness to be added as a party plaintiff; and the plaintiff should have leave to add him, if so advised.