

land in question in a redemption suit for his costs incurred therein, will then be decided. *Scholefield v. Lockwood*, L. R. 7 Eq. 83, and *Bailey v. Birchell*, 2 H. & M. 371, referred to. Order made setting aside certificate of *lis pendens* so far as it affects defendant's land other than the 25 acres. Costs in cause to defendant. The action should go to trial at the first sittings.

MARCH 31ST, 1903.

DIVISIONAL COURT.

BEDDELL v. RYCKMAN.

Discovery—Examination of Party—Affidavit of Documents—Action by Shareholder against Directors of Company for Account of Profits—Purchase of Businesses by Directors and Sale by them to Company—Postponement of Consequential Discovery till Liability Established—Sum Paid by Underwriting Shares—Discount on Shares Subscribed.

Appeal by defendant Cox from order of BRITTON, J., in Chambers (ante 148) affirming order of Master in Chambers (ante 186) requiring appellant to file a further and better affidavit on production, and to attend at his own expense to be further examined for discovery touching the matters in question in this action, and to answer all proper questions that might be asked of him, including those which he refused to answer upon examination on 20th November, 1902, and 7th January, 1903.

W. H. Blake, K.C., for appellant.

W. R. Riddell, K.C., and W. A. Lamport, for plaintiff.

The judgment of the Court (MEREDITH, C.J., MACLAREN, J.A.) was delivered by

MEREDITH, C.J.—The case made by plaintiff in his statement of claim is a single cause of action based upon the proposition that the appellant and his associates, as to the transactions detailed in the statement of claim, in the circumstances under which these transactions took place, stood in a fiduciary relation to defendant company, which prevented them from making any profit for themselves out of the purchase of the five businesses which were acquired by the appellant and his associates, and were afterwards transferred to defendant company for \$4,740,000, a sum far in excess of the purchase prices paid by them, and the relief claimed is an account and payment by defendants other than the company of the difference between the aggregate of the prices paid by appellant and his associates and what was