

MARCH 15TH, 1915.

*WINDSOR AUTO SALES AGENCY v. MARTIN.

*Husband and Wife—Conveyance of Lands of Husband to Wife
Subject to Trust—Reconveyance in Pursuance of Trust—
Action by Judgment Creditors of Wife to Set aside Recon-
veyance—Absence of Fraudulent Intent—Evidence—Es-
toppel—Findings of Fact of Trial Judge—Appeal.*

Appeal by the plaintiffs from the judgment of LATCHFORD, J., 7 O.W.N. 474.

The appeal was heard by MEREDITH, C.J.O., GARROW, MAC-
LAREN, and MAGEE, J.J.A., and BRITTON, J.

J. H. Rodd, for the appellants.

T. Mercer Morton, for the defendants, the respondents.

MEREDITH, C.J.O.:—The appellants are execution creditors of the respondent Elizabeth Martin for \$1,917.30 and costs, and bring their action to set aside as fraudulent and void, as against them and her other creditors, a conveyance made on the 30th June, 1914, by her to her husband, Joseph Martin, the other respondent.

The judgment upon which the execution was issued was recovered on the 10th October, 1914, on promissory notes given by the wife in respect of the purchase-price of an automobile bought by her from the appellants. On the 18th April, 1914, she gave an order to the appellants for an automobile, for which she agreed to pay \$1,375. The automobile was ready for delivery on the 6th May following, and on that day she gave to the appellants the joint promissory note of her husband and herself, payable in one month, for the whole of the purchase-price, with interest at seven per cent. This note was not paid at maturity, and on the 11th June following a new note of the wife alone for \$1,384.35, payable in eight days, with interest at the same rate, was given. This note also was not paid at maturity, and a new note for \$1,387.30, payable on the 1st July following, with interest at the same rate, was given by the wife on the 22nd June, 1914. In the meantime the automobile had been exchanged for a higher priced one, and a note at one month, with interest at the same rate, was given by the wife on the 17th June, 1914, for \$500, which represented the difference in price on the exchange, and it was upon this note and the note for \$1,387.30 that the judgment was recovered.