

ROSE, J., IN CHAMBERS.

FEBRUARY 19TH, 1919.

DOMINION PERMANENT LOAN CO. v. HOLLAND.

Pleading—Statement of Claim—Particulars for Purpose of Pleading—Striking out Parts of Pleading as Improper—Amendment—Leave Reserved to Move for Further Particulars for Purpose of Trial—Further Examination for Discovery.

Appeal by the defendants from an order of the Master in Chambers dismissing motions made by the defendants for particulars of the statement of claim or to strike out certain paragraphs, but granting the defendants leave to plead a simple denial without setting out the facts upon which they rely, and reserving to them leave to move for particulars after they have examined for discovery and to examine a second time for discovery after they have been furnished with any particulars which may be ordered upon the new motions.

R. R. Hall, W. W. Vickers, J. F. Boland, and Christopher C. Robinson, for the several defendants.

J. W. Bain, K.C., for the liquidator of the plaintiff company.

ROSE, J., in a written judgment, said that the action was brought by the liquidator against the personal representatives of four deceased directors, one of whom was also general manager of the company, for repayment of moneys of the company said to have been wrongfully expended by the directors in respect of dividends improperly paid and in respect of expenses of operating at a time when the company was insolvent; and also "damages for misfeasance, fraud, breach of trust, negligence, and misrepresentation," an accounting, and further and other relief.

The learned Judge went over paras. 8, 9, 11, 13, 14, 16, and 17 of the statement of claim, and said that particulars should be given of some of them and that parts of some of them ought to be struck out as improper. He ordered that paras. 9, 11, and 17 should be struck out, with leave to the plaintiff to substitute for them paragraphs omitting the objectionable parts and containing the particulars specified. This amendment rendered unnecessary the leave given by the Master to plead without setting out the facts upon which the defendants rely, which leave, it was argued, was unauthorised by the Rules; and that clause should be struck out of the Master's order. No objection was taken to the clauses of the Master's order by which leave was reserved to the defendants to make a motion for further particulars for the purpose of the trial and to examine for discovery after any particulars ordered