

\$559.74, paid into Court by the bank at Leamington, representing the balance of the moneys which she had in the bank.

There should be a judgment declaring that the deposit of the cheques was fraudulent and void, as against creditors of H. W. Pursel and that the money in the bank and the defendant's interest in the above described property, real and personal, were charged, in favour of the plaintiff and all other creditors of H. W. Pursel, with the sum of \$762.90 and interest at the rate of 5 per cent. per annum upon the amount of each cheque from the date of its deposit, and directing realisation of the charge and distribution of the moneys realised.

The defendant should pay the plaintiff's costs of the action.

KELLY, J.

JULY 6TH, 1920.

FLEMING v. ROYAL TRUST CO.

Trusts and Trustees—Conveyance of Land to Trustees without Explanation of Nature of Trust—Evidence—Attempt to Establish Parol Declaration—Testimony of Interested Parties—Need of Corroboration—Statute of Frauds—Effect of Deed—Resulting Trust in Favour of Grantor—Lands Subject of Trust Treated as Part of Residuary Estate—Costs.

Action for a declaration that a certain trust alleged by the plaintiffs had been established and that it was effective to vest the lands, the subject thereof, in the plaintiffs.

The action was tried without a jury at Ottawa.

G. F. Henderson, K.C., for the plaintiffs.

M. G. Powell, for the defendants.

KELLY, J., in a written judgment, said that the plaintiffs and the defendants, other than the company, were the surviving children of the late Sir Sanford Fleming, and entitled under his will to the residue of his estate; the defendant company was the trustee under the will and codicils.

By deed of the 26th June 1907, registered on the 17th August, 1907, Sir Sanford Fleming conveyed to his four sons then living, Frank, Sanford, Walter, and Hugh, trustees, certain lands, referred to as "the homestead property," the deed being otherwise in pursuance of the Act respecting Short Forms of Conveyances,