

were not wholly blameless. The result was that the case was summarily disposed of without trial.

In view of all the circumstances the judgment should not stand. But all that can be done is to direct a new trial. This will not stand in the way of the plaintiff taking such steps as she may be advised, to make the record complete by the addition of proper parties in case it appears that any such proceeding is necessary.

There should be no costs of the appeal but the costs of the former trial should be costs in the action.

HON. MR. JUSTICE GARROW:—I agree.

HON. MR. JUSTICE MACLAREN:—I agree.

HON. MR. JUSTICE MEREDITH:—The entanglements in which the appellant now finds herself in this case have arisen mainly from her lack of knowledge of the practice of the law. If the case had been wisely conducted it seems to me that it might very well have been finally disposed of, upon its merits, long ago, at much less cost than already has been incurred in it, with the merits of the case yet wholly untouched by judicial consideration; and as she has chiefly herself to blame for the embarrassments she is now involved in.

Her claim seems to me to be a simple one, and one which might, and ought to, have been stated in a few words. It is that she has acquired the shares of the Birkbeck Loan Company, which this Court in former litigation considered were not covered legally by the company's mortgage in which they were comprised; and she seeks an accounting by the defendants in respect of them. Her allegations respecting the mortgage of lands to secure payment to the company in respect of such shares and of the sale of the lands by a prior mortgage and payment into Court of the surplus moneys arising from such sale as well as of payments and overpayments on the stock, are but things incidental to an accounting in respect of such shares; and the whole matter, one which a competent Referee ought to be able to fathom and dispose of, according to the very truth of the matters in controversy, speedily and easily.

The defendants assert that the claim is frivolous and imaginary, important only that it has long delayed and is