

plaintiff was entitled to the money in dispute as the natural result of the transactions between the parties, the case was one in which a second court of appeal would not be justified in disturbing the concurrent findings at the trial and of the court appealed from. Appeal dismissed with costs.

Stuart, K.C., and Pelletier, K.C., for appellant. Bedard, K.C., and Taschereau, K.C., for respondent.

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COGLIN v. JOLIETTE.

[Nov. 30, 1903.]

Breach of contract—Damages—Evidence—Discretionary order by judge at trial—Interference by Court of Appeal.

The trial court condemned the defendant to pay \$122.50 damages for breach of contract for the sale of goods, but in view of unnecessary expenditures caused in consequence of exaggerated demands by the plaintiffs, which were rejected, they were ordered to bear half the costs. On an appeal by the defendant the Court of King's Bench varied the trial court judgment by adding \$100 exemplary damages to the condemnation and giving full costs against the defendants.

Held, reversing the judgment appealed from, that in the absence of any evidence of bad faith or wilful default on the part of the defendant, there was no justification for the addition of exemplary damages nor for interference with the judgment of the trial court. Appeal allowed with costs.

Beique, K.C., and Lafleur, K.C., for appellant. Renaud, K.C., for respondent.

B.C.]

TURNER v. COWAN.

[Nov. 30, 1903.]

Company law—Payment for shares—Transfer of business assets—Debt due partnership—Set-off—Counterclaim—Accord and satisfaction—Liability on subscription for shares.

On the formation of a joint stock company to take over a partnership business, each partner received a proportionate number of fully paid-up shares at their par value in satisfaction of his interest in the partnership assets.

Held, reversing the judgment appealed from (9 B.C.R. 301.) DAVIES, J., dubitante, that the transaction did not amount to payment in cash for shares subscribed by the partners within the meaning of ss. 50, 51 of the Companies Act, R.S.B.C., c. 44, and that the debt owing to the shareholders as the price of the partnership business could not be set off nor counterclaimed by them against their individual liability upon their shares. *Fotherill's Case*, 8 Ch. App. 27, followed. Appeal allowed with costs.

Riddell, K.C., for appellant. Davis, K.C., for respondent.