

after examination for discovery of the defendant, referring to *MacMahon v. Railway Passengers Assurance Co.*, 3 O.W.N. 1239, 1301, 26 O.L.R. 430. Motion dismissed with costs to the defendant in any event. M. L. Gordon, for the plaintiff. C. A. Masten, K.C., for the defendant.

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SATURDAY NIGHT LIMITED v. HORAN—LATCHFORD, J.—FEB. 13.

*Fraudulent Conveyances—Chattel Mortgages—Mortgage of Land—Conveyance of Land—Action to Set aside—Evidence—Insolvency—Knowledge—Actual Advances—Good Faith.*—Action by unsatisfied judgment creditors of the defendant James Horan for a declaration that a mortgage of land, a deed of land, and two chattel mortgages, made by him to his co-defendants respectively, should be declared fraudulent and void as against the plaintiffs and all his other creditors. One of the chattel mortgages, that dated the 5th September, 1911, was in force when this action was begun, but was not renewed, and lapsed as against the plaintiffs. The other chattel mortgage, dated the 27th October, 1910, had been duly renewed. This was made to James Horan's brother, the defendant Eugene Horan, for \$325, which was actually advanced. The land mortgage, dated the 31st October, 1910, was a second mortgage, and was made to James Horan's mother, the defendant Elizabeth Horan, to secure a previous advance of \$1,200, for which he had promised to give her a second mortgage. On the 27th September, 1911, James Horan conveyed his equity of redemption in the land to his other brother, the defendant William Horan, in consideration of \$140.80, which was not in fact paid. LATCHFORD, J., found, upon the evidence, that the chattel mortgage to the defendant Eugene Horan and the land mortgage to the defendant Elizabeth Horan were executed in good faith, when James Horan was solvent, and to secure actual advances, and had not been successfully impeached. Otherwise, however, as regarded the conveyance to the defendant William Horan, who knew that his brother was insolvent on the 27th September, 1911, and procured the execution of the deed of that date in fraud of his brother's creditors. Judgment directing that this deed be set aside and the registration thereof vacated. Action dismissed as against the defendants Eugene Horan and Elizabeth Horan without costs. The plaintiffs to have one-third of the general costs of the action against the defendants James Horan and William Horan. J. J. MacLennan, for the plaintiffs. J. Fraser, for the defendants.