

not succeed, and so the taking of evidence for use upon it should not be sanctioned.

There was no suggestion of a counterclaim against the plaintiff and the agent jointly for damages; the adding of the agent as a party is sought solely for the purpose of making a claim against him alone for damages, if the plaintiff succeed in this action.

But, apart from that, it would have been useless and improper to have examined the agent for the purpose of adding him as a party to the action, because he was willing, and gave his consent, to be so added, and because the plaintiff had no notice of the intended examination of the man, and so the evidence, if taken, would have been improperly taken against him also.

The appeal should be allowed and the order below discharged; the respondent should pay the costs of this appeal and of the proceedings appealed against.

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SECOND DIVISIONAL COURT.

JUNE 22ND, 1917.

ANGUS v. MAITRE.

*Deed—Conveyance of Land by Mother to Daughter—Transfer of Chattels—Action to Set aside—Absence of Fraud—Improvidence—Lack of Independent Advice—Registration of Deed—Cancellation—Unnecessary Provision in Judgment.*

Appeal by the defendants from the judgment of BRITTON, J., 11 O.W.N. 335.

The appeal was heard by MEREDITH, C.J.C.P., RIDDELL, LENNOX, and ROSE, JJ.

M. K. Cowan, K.C., for the appellants.

D. L. McCarthy, K.C., for the plaintiffs, respondents.

LENNOX, J., in a written judgment, said that BRITTON, J., had set aside a conveyance of land and a transfer of chattels made by the plaintiff Annie R. Angus to her daughter, the defendant Mary J. Maitre, on the 20th July, 1915, and directed that the registration of the deed of the land be vacated. He also directed a reference to take certain accounts. No order as to costs was made.