

Sale. The action was tried without a jury at Sandwich. SUTHERLAND, J., reviewed the evidence in a considered judgment, and made certain findings of fact, upon which he directed that judgment should be entered as follows: (1) declaring that the defendant Sale held the lands in question as trustee for himself and Ralph Loveland and the plaintiff Murphy and the defendant Williamson, in the following proportions, viz., Loveland and Murphy one-third each and Williamson and Sale one-sixth each; (2) that Sale acquired the share or interest of Loveland, and is now, subject to the claim of the defendant company, entitled to three-sixths; (3) that the defendant company acquired its interest in the land with notice of and subject to the trust in favour of Murphy and Williamson; (4) dismissing the claim of the plaintiff Blanche B. Loveland without costs; (5) directing a reference to the Local Master at Windsor to take all necessary accounts and make all necessary inquiries for ascertaining what, if anything, is due to Murphy and Williamson, having regard to the declaration aforesaid, and for winding up the affairs of the trust; (6) reserving further directions and costs until after report. M. Sheppard, for the plaintiff Blanche B. Loveland. The plaintiff Murphy, in person. M. K. Cowan, K.C., for the defendant Sale. T. G. McHugh, for the other defendants.

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HULL v. ALLEN—SUTHERLAND, J., IN CHAMBERS—JULY 9.

*Stay of Proceedings—Delay in Prosecution of Reference and in Bringing on Pending Interlocutory Motions for Determination—Death of Plaintiff—Failure of Executor to Revive Action—Locus Pœnitentiæ.*—Motion by the defendant by revivor for an order appointing an administrator ad litem of the estate and effects of the deceased plaintiff, so that his estate might be represented for the purposes of this action, and for a perpetual stay of proceedings in the action. The original judgment in the action was pronounced in 1902; it directed a reference to take accounts. There was a report in 1904, and there were appeals therefrom, and a reference back was directed. The original defendant died on the 8th March, 1910, and the action was revived in the name of the present defendant. The original plaintiff died in 1913. Two interlocutory motions were pending and undisposed of. The reference had not been proceeded with.