

## HIGH COURT OF JUSTICE.

Street, J.]

ROSS v. ROBERTSON.

[Feb. 1.

*Limitation of actions—Account—Co-owners of land—Partnership—Principal and agent—Trustee—Outlay on land—Rents.*

The plaintiff sold a half interest in land to the defendant, and they agreed to build houses thereon at their joint cost and to raise part of the money for the purpose by mortgages upon the property, and to contribute the remainder in equal shares. The houses were completed and rented in 1891; the defendant, who was on the spot, the plaintiff living in another province, collected the rents on joint account, and paid out of them the interest on the mortgages and the taxes and other outlays upon the property, sending accounts from time to time to the plaintiff. The plaintiff alleging that the defendant did not contribute his just share of the cost of the houses, and that he had not properly accounted for the rents, brought an action for an account on August 5, 1902.

*Held*, that the plaintiff was barred by the Statute of Limitations in respect of his claim as to the cost of the houses, and also with regard to the rents except for six years before the commencement of the action; the plaintiff and defendant were not partners, nor was the defendant an express trustee for the plaintiff; he was an ordinary agent without any special fiduciary character. *Coyne v. Broddy*, 15 A.R. 139; *Burdick v. Garratt*, L.R. 5 Ch. 233, and *Lyell v. Kennedy*, 14 App. Cas. 437, distinguished.

*J. H. Moss*, for plaintiff. *H. L. Drayton*, for defendant.

Street, J.]

KNAPP v. CARLEY.

[Feb. 6.

*Master in Chambers, jurisdiction—Summary dismissal of action.*

The Master in Chambers has no power under Rule 261 or otherwise to order the dismissal of an action upon the ground that no cause of action is shewn upon the plaintiff's own statement.

*Grayson Smith*, for plaintiff. *C. A. Moss*, for defendant.

Britton, J.]

LANE v. CITY OF TORONTO.

[Feb. 25.

*Municipal corporations—Inquiry into municipal election—Powers of Council—Municipal Act, 1903, s. 324 (1)—“Good government of the municipality”—Ratepayer—Injunction—Conduct of inquiry—Evidence—Witnesses—Ballot papers.*

*Held*, that the council of a city had power under s. 323 (1) of the Municipal Act, 1903, to order an inquiry by a County Court Judge into an election for members of the council and Board of Education, at which it was alleged that corrupt practices had prevailed; the election being a