

Full Court.]

[July 10.]

DISOURDI v. SULLIVAN GROUP MINING COMPANY.

Practice—Workmen's Compensation Act, 1902—Procedure to set aside award—Costs where procedure uncertain—Discretion.

Proceedings to set aside an award under the Workmen's Compensation Act, 1902, registered in the County Court, may be taken by way of motion, and it is not necessary to apply for a writ of prohibition.

Where there is a doubt as to what is the procedure to be followed, the court in its discretion will not order costs to the successful party: *Murphy v. Star Mining Co.* (1901), 8 P.C. 422.

L. G. McPhillips, K.C., for appellant. *S. S. Taylor*, K.C., for respondent.

Full Court.]

[July 10.]

JONES v. NORTH VANCOUVER LAND AND IMPROVEMENT CO.

Company law—Forfeiture of shares—Abandonment by acquiescence in forfeiture.

The plaintiff, H. A. Jones, one of the original shareholders of the company, organized in 1891, transferred 240 shares to his wife, co-plaintiff, Clara B. Jones, on September 26, 1893, and on same day took an assignment of the same shares from her to himself. The assignment was never registered. The par value of the shares was \$100 on which 80% had been paid up. In May, 1895, a call of 2½% was made, payable June 14, following, with the usual penalty of forfeiture in case of default. Default was made, and the shares were declared delinquent, were offered for sale, but there being no bid were withdrawn. In March, 1896 (new by-laws having been adopted in the meantime) a call of 6% was made on all shares, including those of the plaintiff, Clara B. Jones. Default was made, and in due course the shares were declared delinquent. In April, 1897, a further call of 9% was made. On May 21, 1898, a resolution was passed by the directors that Mrs. Jones be served with a notice requiring her to pay the call of 2½% by the 24th of June, and that in the event of default the shares would be forfeited. At a meeting of the directors on June 25, a resolution of forfeiture, reciting the facts was put, when Mrs. Jones's husband and co-plaintiff who was present and a director, offered to pay \$100 on account if the shares were not forfeited for six months. This offer was