

COURT OF APPEAL, ENGLAND

De Braam v. Ford*

A bill of sale stipulated that the principal sum secured should be repaid "on or before 1st Nov., 1899."

Held that it was substantially in accordance with the statutory form, and was valid.

This was an appeal against a decision of Mr. Justice North (reported at page 178, Vol. VII., JOURNAL). The question raised was upon the construction of section 9 of the Bills of Sale Act, 1882, which provides that "a bill of sale made or given by way of security for the payment of money by the grantor thereof shall be void, unless made in accordance with the form in the schedule to this Act annexed." The form given in the schedule contains (*inter alia*) the following clauses:—"And the said A. B. doth further agree and declare that he will duly pay to the said C. D. the principal sum aforesaid, together with the interest then due, by equal — payments of £ — on the — day of — [or whatever else may be the stipulated times or time of payment]. And the said A. B. doth also agree with the said C. D. that he will [here insert terms as to insurance, payment of rent, or otherwise, which the parties may agree to for the maintenance or defeasance of the security]." The plaintiff, Jeane André de Braam, had borrowed money from the defendant, a money-lender, of Cork street. The borrower and his wife gave to the lender a bill of sale of some furniture. It was thereby agreed that payment of the principal sum secured should be made "on or before the first day of November, 1899." The money secured was not paid, and the defendant was taking steps to realize. The plaintiff by this action claimed a declaration that the bill of sale was void, and an injunction to restrain the defendant from removing or seizing the furniture. The plaintiff applied for an interim injunction. Mr. Justice North was of opinion that an agreement to pay on or before a named day was an agreement to pay at an uncertain time, and consequently that the bill of sale was not in accordance with the statutory form and was void. He therefore granted an interlocutory injunction. The defendant appealed.

The Court allowed the appeal.

*The Law Times Reports.