

Under Rule 533, a judgment for the recovery by or payment to any person of money may be enforced by the issue of a writ of execution; but, before any execution can issue, there must be a judgment directing payment or recovery; and this cannot be implied from a mere declaration of right.

The issue of the writ of execution was, therefore, irregular.

It could not be said that the judgment as entered was not in accordance with the judgment pronounced.

The application, under Rule 523, for a supplementary order should be entertained, and the effect of the legislation upon which the defendants relied as relieving them from liability should be considered.

Reference to *Hoffman v. McCloy* (1917), 38 O.L.R. 446, as to the scope of Rule 523.

To refuse to implement the declaratory judgment by directing payment of the sums falling due in the 4 years since the judgment would be an undue narrowing of the scope of the Rule.

Had the Act of 1915, 5 Geo. V. ch. 30, which changes the law and provides that no person who has become or may become entitled to an instalment under the earlier Act shall be entitled to receive payment unless he continues to be a member of the society and pay his dues, been in force when the action was tried, no doubt it would have precluded the pronouncing of the judgment. That statute is retrospective in its operation; but a retrospective statute will not interfere with rights that have already passed into judgment unless the intention of the Legislature so to interfere is clearly expressed.

Reference to *Re Merchants Life Association* (1901), 2 O.L.R. 682; *Reid v. Reid* (1886), 31 Ch. D. 402, 408, 409.

The defendants also relied on the effect of the distribution of a fund of \$200,000 in accordance with an undertaking given when the legislation of 1905 was applied for. But in the judgment of the appellate Court, 33 O.L.R. 116, it is stated that the defendants asked that the judgment given at the trial be varied as so to provide that payment should be made from that fund only. This was expressly refused.

It was said that amendments to the constitution of the defendant society, made in 1915, were intended to be retroactive and to include the plaintiff; but such domestic legislation could not affect a judgment of the Court.

Again, it was said that these amendments were confirmed by an Act passed in 1917, an Act respecting the defendant society, 7 Geo. V. ch. 99; but there was nothing in that Act indicating an intention to interfere with the judgment.

The execution should be set aside, and an order should now be made for payment of the 4 annual sums with interest.

Success being divided, there should be no costs.