

other instance where the provisions of the by-law have not been complied with. I think I should be going far enough in vindication of the position taken by the plaintiff corporation by now declaring that the building was improperly altered without plans for the alteration having been submitted to the Building Inspector as required by the by-law in question, and by following this declaration by the statement that—it now appearing upon the evidence that the building is in fact in accordance with the requirements of the by-law—this Court does not see fit to make any order save that the defendant do pay the plaintiff's costs of this action.

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FALCONBRIDGE, C.J.K.B.

SEPTEMBER 24TH, 1914.

WEDDELL v. DOUGLAS.

*Chattel Mortgage—Validity against Execution Creditor of Mortgagors—Intent—Family Partnership—Executor de son Tort—Statement of Consideration—Want of Registration of Earlier Mortgage—Interpleader.*

An interpleader issue. The plaintiff claimed, under a chattel mortgage, goods seized by a sheriff under the defendant's execution against the chattel mortgagors.

The issue was tried by FALCONBRIDGE, C.J.K.B., without a jury, at Cobourg.

W. L. Payne, K.C., for the plaintiff.

W. F. Kerr and I. A. Humphries, for the defendant.

FALCONBRIDGE, C.J.K.B.:— . . . The only question of fact is as to the intent with which the mortgage was made, and I find that it was not made with intent on the part of either party to defeat, hinder, or delay creditors or others, but in entire honesty.

And, in view of the fact that the indebtedness was an indebtedness of all the McQuaids, who were working together as a family partnership, the objection as to the capacity of an executor *de son tort* is not of avail.

On this point Mr. Kerr strongly relied on Buckley v. Barber (1850), 6 Ex. 164, which necessarily commands respect, inasmuch as Parke, B., delivered the judgment of the Court. But