

# The Ontario Weekly Notes

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No. 21

## APPELLATE DIVISION.

FIRST DIVISIONAL COURT.

FEBRUARY 4TH, 1920.

### ANDERSON v. NOWOSIELSKI.

*Assignments and Preferences—Action by Assignee for Benefit of Creditors of Insolvent to Set aside Mortgage to Creditor Made by Insolvent—Evidence—Preference—Chattel Property Transferred to Creditor—Claim of Creditor against Estate—Account—Costs*  
• —Appeal.

Appeal by the defendant Lavoie from the judgment of SUTHERLAND, J., 16 O.W.N. 379.

The appeal was heard by MEREDITH, C.J.O., MACLAREN, MAGEE, HODGINS, and FERGUSON, JJ.A.

E. S. Wigle, K.C., for the appellant.

F. D. Davis, for the plaintiff, respondent.

A. B. Drake, for the defendant Nowosielski, respondent.

THE COURT dismissed the appeal with costs (the respondent Nowosielski's costs fixed at \$20), without prejudice to the rights (if any) of the appellant to prove a claim upon the insolvent estate for \$450, said to be part of the consideration for the sale of an automobile, and with a declaration that the sum of \$800 to be paid to the plaintiff is to be dealt with according to the rights of the respective parties to the action.