

After this debt was contracted, and on the 1st March, 1906, the partnership between the appellant and Lockhart was dissolved and a new partnership was formed under the same name, consisting of Lockhart and E. J. K. Norris, which took over the business of the former partnership and assumed and agreed to pay its liabilities.

Notice of the dissolution was given to the plaintiffs early in March, 1906, and by it they were informed that the appellant had sold out his interest in the business to his brother, who with Lockhart would carry on the business under the name of Norris & Lockhart, and by it the plaintiffs were also informed that the new firm had assumed and would pay all debts, liabilities, and obligations of the old firm.

Notice of the assignment was given to the plaintiffs, and was published in the Ontario Gazette and in a Galt newspaper, and in it the assignment was stated to have been made by "Edgar J. K. Norris and Thomas D. Lockhart, . . . carrying on business as plumbers . . . under the name . . . of Norris & Lockhart."

At a meeting of the creditors of the new firm, R. J. Cluff, one of the plaintiffs, was appointed one of the inspectors of the estate.

The plaintiffs filed against the estate of the insolvent firm the claim for which they now sued, and received from the assignee the two dividends referred to, one on the 22nd October, 1906, and the other on the 28th May, 1907. They also received from the new firm the payment of \$50 for which credit was given.

The defence of the appellant was that the plaintiffs accepted the new firm as their debtors in discharge of their claim against him and the old firm.

The plaintiffs met this defence by saying that, if they had ever seen the notice of dissolution, it had escaped their recollection when the acts relied on by the appellant were done; that they proved their claim against the insolvent estate under the belief that they were proving it against the estate of the old firm; and that until shortly before the trial they believed that the appellant was still a member of the partnership at the time of the assignment.

The trial Judge gave credit to the testimony of the plaintiffs, saying that he believed them to be honest men, and held that no novation had taken place, gave the plaintiffs, on their undertaking to repay them to the assignee, leave to amend by striking out the credit of the two dividends they had received, and gave judgment for the plaintiffs for \$572.44 and interest from the teste of the writ with costs.