

ence ought to go on or to be stayed; and the balance of convenience in this case clearly indicates that the reference ought to proceed.

*Sharpe v. White*, 20 O. L. R. 575, shews that the granting of a stay or of an order to proceed, whichever is necessary, is discretionary.

I have spoken to the Chief Justice, who has heard the appeals and is therefore familiar with the questions involved, and he agrees with the view that I now express.

The motion will therefore be refused.

Costs to the plaintiff in any event.

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H.C.N. MR. JUSTICE SUTHERLAND.

APRIL 28TH, 1914.

HOWARD v. CANADIAN AUTOMATIC TRANSPORTATION CO., & WEAVER.

6 O. W. N. 285.

*Company—Prospectus—Misrepresentation as to Existence of Patent—Purchase of Shares—Rescission—Fraudulent Misrepresentation by Agent as to Business of Company—Materiality—Reliance on—Inducement to Purchase—Evidence—Prompt Repudiation after Discovery of Falsity of Statements.*

An action to rescind sales of two blocks of shares of the capital stock of the defendant company to the plaintiff, on the ground that the plaintiff was induced to purchase by false and fraudulent misrepresentations, and for repayment of the moneys paid by the plaintiff.

SUTHERLAND, J., *held*, that misrepresentation as to existence of letters patent at time of issue of prospectus is material and under Ont. Co. Act (1907) c. 34, s. 97 (2) renders void contract for sale of shares.

That defendant Weaver was agent of defendant company and his misrepresentation that the company's business was so great as to render a second factory necessary was material and misled and induced purchase of shares.

*Lloyd v. Grace Smith Co.*, [1913] A. C. 716, followed. Order for rescission of sales and return of money paid.

An action to rescind sales of shares of stock in defendant company on the ground of alleged false and fraudulent misrepresentations and for repayment of money paid therefor.

T. A. Beament, for plaintiff.

G. M. Macdonell, K.C., for defendant company.

Gordon S. Henderson, for defendant Weaver.