

A. C. 476, 481, 482; . . . Winans v. The King, [1908] 1 K. B. 1022, 1030.

If, as was contended . . ., the statement of Mr. Dicey is to be limited in its application to the determination of the situation of the debt for the purposes of an administration, the reasons which led to its adoption in the case of administration, I think, apply to clause (h) of Rule 162.

The purpose of the Rule manifestly is to enable a creditor, who is not otherwise entitled to sue his debtor in an Ontario Court, to do so for the purpose of obtaining satisfaction out of the debtor's property in Ontario which may be made available to satisfy a judgment recovered in an Ontario Court, and it must, therefore, I think, have been intended that whatever property in Ontario might be made available for that purpose should be assets within the meaning of the Rule. . . .

[Reference to Love v. Bell Piano Co., 10 W. L. R. 657, disproving it.]

Appeal dismissed; costs in the cause.

DIVISIONAL COURT.

MARCH 17TH, 1910.

McCABE v. BELL.

Fraud and Misrepresentation—Exchange of Properties—Misstatement as to Existence of Stable — Knowledge — Reliance on Statement—Damages—Costs.

Appeal by the plaintiff from the judgment of BRITTON, J., dismissing without costs an action for misrepresentation and fraud arising out of the exchange of a stock of general merchandise owned by the plaintiff for 300 acres of land in Muskoka and a house and lot in Toronto. Representations were alleged to have been made by the defendant, orally and in writing, in substance, that there was erected on the Muskoka land a barn 30 x 50, and that there was a stone stable underneath the whole of the barn; that about 100 acres of the land were cleared; and that machinery could be run over any part of the cleared 100 acres.

The plaintiff never saw the property until after the transaction was closed. The defendant had visited the property at least twice before that.

There was in fact no stone stable underneath the barn, and there were only 45 or 50 acres cleared.