

SUTHERLAND, J.

APRIL 15TH, 1916.

BANK OF OTTAWA v. MARTIN.

Husband and Wife—Promissory Note Signed by Wife at Request of Husband—Absence of Independent Advice—Failure to Show Misrepresentation or Misconduct or Pressure or Undue Influence—Mortgage—Validity.

Action on a promissory note for \$2,000 made by the defendants Charles Martin and M. E. Martin, his wife, payable to the order of the defendant R., and endorsed by the latter to the plaintiffs, in renewal of a previous note which they had discounted.

The defendants Charles Martin and R. did not appear, and judgment was entered against them.

The defendant M. E. Martin set up the defence that the original note and renewals were signed by her without independent advice and acting under the undue influence and pressure of her husband and of the plaintiffs.

The action as against the defendant M. E. Martin was tried without a jury at Toronto.

A. C. Heighington, for the plaintiffs.

Gordon Waldron, for the defendant M. E. Martin.

SUTHERLAND, J., read a judgment in which he reviewed the evidence and stated his conclusion that there was no misrepresentation or misconduct on the part of the plaintiffs and no undue influence or pressure on the part of the husband to induce the wife either to sign the notes or execute a certain mortgage which she made in favour of the plaintiffs. She fully understood, in each case, what she was doing, and the legal consequences. In these circumstances, the defence of lack of independent advice could not avail her: *Howes v. Bishop*, [1909] 2 K.B. 390.; *Chaplin & Co. Limited v. Brammall*, [1908] 1 K.B. 233; *Bank of Montreal v. Stuart*, [1911] A.C. 120; *Euclid Avenue Trust Co. v. Hohns* (1911), 23 O.L.R. 377, 24 O.L.R. 447; *T. J. Medland Limited v. Cowan* (1916), ante 4.

Judgment for the plaintiff against the defendant M. E. Martin for the amount of the note, with the declaration that the mortgage referred to is a valid and subsisting security, and with costs.