

FIRST DIVISIONAL COURT.

OCTOBER 10TH, 1919.

*BELL v. CHARTERED TRUST CO.

*CHARTERED TRUST CO. v. BELL AND BUISSEY.

Landlord and Tenant—Oral Agreement for Lease—Lease Prepared but not Executed—Part Performance—Possession—Payment of Rent—Assignment by Lessee for Benefit of Creditors—Attempted Surrender of Lease—Invalidity as against Creditors—Assignments and Preferences Act, R.S.O. 1914 ch. 134, sec. 5—Right of Assignee to Enforce Performance of Agreement for Lease—Personal Covenants by Assignee—Landlord and Tenant Act, R.S.O. 1914 ch. 155, sec. 38 (2)—Notice.

Appeal by Bell and Buissey from the judgment of LOGIE, J., ante 24, in the two actions (consolidated).

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

J. M. Ferguson, for the appellants.

W. Lawr, for the Chartered Trust Company, respondents.

THE COURT allowed the appeal with costs, directed judgment to be entered for the plaintiff in the first action for possession with costs, and judgment dismissing the second action with costs.

HIGH COURT DIVISION.

MIDDLETON, J.

OCTOBER 6TH, 1919.

RE CLARK.

Will—Construction—Bequest to Sister "Absolutely"—Expression of Wish that Sister Shall Give Part to Brother—No Definite Benefit Given to Brother—Absolute Bequest Free from Trust in Favour of Brother—"Precatory Trust."

Motion by Adam Clark for an order determining a question arising upon the will of Samuel James Clark, deceased.

The motion was heard in the Weekly Court, Toronto.

D. O. Cameron, for the applicant.

W. K. Fraser, for Mary Ann Watson.