

of judgment against one of two joint wrongdoers releases the other: cases collected in Holmested's Judicature Act, 4th ed., p 384. But our Rules differ from the English Rules: Holmested, p. 864. In this case the Court should, as in Goldrei Foucar and Son v. Sinclair (1917), 34 Times L.R. 74, treat the judgments against the defendant company as being entered upon motions for judgments on the claims for the return of moneys had and received, and not on the claims for damages for deceit. The plaintiffs by their statements of claim claimed the return of moneys had and received without consideration or on a total failure of consideration. The defendant company neither appeared nor pleaded; and it was quite open to the Court to pronounce judgments in favour of the plaintiffs for the return of the moneys paid: Rules 35, 220, 354 to 358, (Holmested, p. 862). Judgments were in fact directed to be entered against the company for sums equal to the moneys paid and interest, and it was also directed that the judgments should not prejudice the plaintiffs' right to proceed further against the defendant MacPherson. These judgments were pronounced in the presence of the defendant MacPherson, and he did not then appeal against the declaration that the plaintiffs' rights against him should not be prejudiced by the judgment; and he could not now question the authority of that pronouncement.

*Appeals dismissed with costs.*

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FIRST DIVISIONAL COURT.

APRIL 3RD, 1918.

McNAIRN v. GOODMAN.

*Fraudulent Conveyance—Action to Set aside—Evidence—Intent—Knowledge of Grantee—Claims of Creditors—Costs—Interest—Oppressive Bargain—Findings of Fact of Trial Judge—Appeal.*

An appeal by the defendant Rachel Goodman from the judgment of CLUTE, J., 12 O.W.N. 374.

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

R. McKay, K.C., for the appellant.

G. H. Watson, K.C., and S. J. Birnbaum, for the plaintiff, respondent.

THE COURT dismissed the appeal with costs.

10—14 O.W.N.