

THE
ONTARIO WEEKLY REPORTER

VOL. 23 TORONTO, JANUARY 16, 1913. No. 12

DIVISIONAL COURT.

NOVEMBER 19TH, 1912.

FEE v. TISDALE.

4 O. W. N. 373.

Debtor and Creditor—Judgment Debtor—Motion to Commit—Alleged Concealment of Property—Alleged Refusal to Answer—Statute-barred Debt—Assets in Hands of Foreigner—Right to Examine before Return of Nulla Bona Made.

Application to commit defendant, a judgment debtor, or in the alternative to have her attend for re-examination on the ground that she had not answered, fully, questions as to her disposition of certain property, and had concealed and made way with the same. The judgment in question, for \$412.60, was recovered in respect of plaintiff's share in an estate which was supposed to have come to her for division. Defendant had been entitled to an equal share of the estate and had received such share, but had never actually received plaintiff's share, and refused to obtain same from the trustee in Seattle, in whose possession it was, on the ground that plaintiff was indebted to her in respect of a debt which had become statute-barred, and, that until he paid the same, she would not facilitate him in any way.

DENTON, Co.C.J., dismissed motion.

DIVISIONAL COURT, *held*, that defendant's answers had been full and frank, and that there was no case of concealment of assets, as the moneys in question had never come to her hands.

McKinnon v. Crowe, 17 P. R. 291, distinguished.

Appeal dismissed without costs.

Appeal from the judgment of HIS HONOUR, JUDGE DENTON, of the County Court of the county of York, dismissing a motion to commit the defendant, or in the alternative for an order for her re-examination for not disclosing her property, or for having concealed or made away with the same, and insufficient answers upon her examination.

The plaintiff recovered judgment against the defendant for \$412.40 for debt and \$27.60 for costs. It does not appear that execution was placed in the sheriff's hands or that there was a return *nulla bona*. An appointment, how-