

CANADA / JUDGMENT

Cochrane v. Schetky

(1920) 60 SCR 650

COURT

Supreme Court of Canada

DECIDED

8 March 1920

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Cochrane v. Schetky Collection Supreme Court Judgments Date 1920-03-08 Report

(1920) 60 SCR 650 Judges Davies, Louis Henry; Idington, John; Duff, Lyman Poore; Anglin, Francis Alexander; Brodeur, Louis-Philippe; Mignault, Pierre-Basile On appeal from British Columbia Subjects Contract Decision Content Supreme Court of Canada Cochrane v. Schetky, (1920) 60 S.C.R. 650 Date: 1920-03-08 Cochrane v. Schetky. 1920: February 6; 1920: March 8. Present: Sir Louis Davies C.J. and Idington, Duff, Anglin, Brodeur and Mignault JJ. ON APPEAL FROM THE COURT OF APPEAL FOR BRITISH COLUMBIA. Debtor—Creditor—Agreement—Rescission—Fraud. APPEAL from the judgment of the Court of Appeal for British Columbia^[1], reversing the judgment of the trial judge, Hunter C.J. and maintaining the respondent's, plaintiff's, action. The appellant, a shareholder in the Acadia Limited company, gave a promissory note of \$7,250 in part payment of stock; and the company entered into an agreement with one C. who undertook to make the collection of all similar notes, including the above. Then C., with one E., obtained the incorporation of the Union Funding Company. Later on; C. and E. having virtual control of both companies, the companies entered into an agreement whereby the Acadia Limited transferred to the Union Funding Co. all the promissory notes. After the Acadia Limited went into liquidation, the appellant negotiated with the Union Funding Company and recovered his note on payment of \$1,500. An action was taken by the liquidator of the Acadia Limited for rescission of the agreement between the two companies on the ground of fraud and for a declaration that the appellant was in wrongful possession of his note, such fraud being to his knowledge. The trial judge dismissed the action; but this judgment was reversed by the Court of Appeal. On appeal to the Supreme Court of Canada, the judgment of the Court of Appeal was affirmed. Appeal dismissed with costs. Hellmuth K.C. for the appellant. W.J. Baird for the respondent.

[1] 26 B.C. Rep. 257.

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