

CANADA / JUDGMENT

Simpson v. Tasker-Simpson Grain Co.

(1920) 60 SCR 647

COURT

Supreme Court of Canada

DECIDED

6 April 1920

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Simpson v. Tasker-Simpson Grain Co. Collection Supreme Court Judgments Date 1920-04-06
Report

(1920) 60 SCR 647 Judges Davies, Louis Henry; Idington, John; Duff, Lyman Poore; Anglin, Francis Alexander; Brodeur, Louis-Philippe; Mignault, Pierre-Basile On appeal from Alberta Subjects Evidence Decision Content Supreme Court of Canada Simpson v. Tasker-Simpson Grain Co., (1920) 60 S.C.R. 647 Date: 1920-04-06 Simpson; v. Tasker-simpson Grain Co. 1920: February 12, 13; 1920: April 6. Present:—Sir Louis Davies C.J. and Idington, Duff, Anglin, Brodeur and Mignault JJ. ON APPEAL FROM THE APPELLATE DIVISION OF THE SUPREME COURT OF ALBERTA. Evidence—Partnership—Claim of surviving partner—Onus probandi. APPEAL from the judgment of the Supreme Court of Alberta, Appellate Division^[1], affirming, on equal division, the judgment of Walsh J. at the trial and maintaining the counterclaim of the defendant, respondent. The appellant claimed \$8,147.99 for grain sold and delivered to the respondent. This claim was not disputed by the respondent, but he filed a counterclaim for a greater amount claimed to be due him by appellant's husband upon transactions made on behalf of an alleged partnership between Tasker and Simpson, before the incorporation of the respondent company, the claim having been transferred by Tasker to the respondent. The whole question was whether the evidence of Tasker as to the existence of such partnership was sufficiently corroborated to satisfy the "Alberta Evidence Act" in a case of a claim against the executor of the estate of a deceased person, as in the present case the appellant had been named executrix of her husband's estate. The trial judge found in favor of the respondent, and, the Appellate Division, upon an equal division of the court, affirmed this judgment. On the appeal by the plaintiff to the Supreme Court of Canada, the court, after hearing counsel for both parties, reserved judgment, and, at a subsequent date, allowed the appeal with costs. Appeal allowed with costs. H. P. O. Savary K.C. for the appellant. G. H. Ross K.C. for the respondent.

[1] [1919] 3 W.W.R. 928.

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