

1897

*June 3.

*Nov. 10.

BLAKELEY *et al.* v. GOULD *et al.*

Insolvency—Pressure—Assignment of expected profits—Fraudulent preferences—Statute of Elizabeth—Assets exigible in execution.

APPEAL from the judgment of the Court of Appeal for Ontario (1) affirming the judgment of Street J., in the High Court of Justice, which dismissed the action of the plaintiffs with costs.

This action was brought to set aside an assignment, by way of security, to the defendant of an interest in the profits expected to be earned under a contract for the performance of work, on the ground that it was made to defeat, hinder, defraud, delay and prejudice the plaintiffs and the other creditors of the assignor, (who was insolvent,) and to give the assignee an unjust preference. In the trial court the decision in favour of the defendant was based on the ground that the assignment had been made under pressure and

(1) 24 Ont. App. R. 153.

was therefore valid. The Court of Appeal affirmed this judgment, but upon other grounds, holding that as the subject of the assignment did not consist of assets which could be reached by creditors at the time when it was made, the assignment did not come within the Act respecting assignments and preferences.

After hearing counsel for both parties, the Supreme Court of Canada reserved judgment and on a later day dismissed the appeal with costs, the judges adopting the reasoning of the judges in the Court of Appeal for Ontario as reported in volume 24 of the Ontario Appeal Reports.

Robinson Q.C. and *W. H. Ferguson* for the appellants.

Miller Q.C. for the respondents.

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