

City Assets Company v Hinds & Son

Opinion on Evidence

The Pleadings in this case are necessarily rather prolonged but the issues will take following shape.

The Plaintiffs have to begin & must prove

- (a) Assignment by Trollope to them & notice thereof to the Defendants
- (b) Work and labour done by Trollope for Defendants or (accepting the admission in ¶ 2 of defence that £122.10.8 was done for Stephen Hinds) work & labour beyond £122.10.8 done for the Defendants

If the Plaintiffs stop there the Defendants have to prove an indebtedness by Trollope to S. Hinds both now and at the time of the Assignment exceeding £122.10.8. No doubt this can readily be done by cross examination of Trollope if he is called but if not Mr Hinds is the proper person to prove it. Trollope should also be subpoenaed (duces tecum) to produce the notice of April 9/90 calling in the money due on Mortgage. The original Mortgages should be in Court.

The Plaintiffs then have to prove the alleged Agreement of Novr 23/90 to pay for all work & notwithstanding Trollope's debt to Hinds. It will therefore lie upon them to produce the document & they will no doubt take the proper steps to do so. In my opinion its effect is not that contended for, & does not in any way limit the right of set off - To meet contingencies however the Defendants should be

prepared to prove that Shelton has not performed his part of that agreement - On this head the proof does not require amplification & increased certainty & Mr Standa must be prepared to state in what particulars default has been made and produce an account showing amounts received.

With regard to the payments of £2. 19. 9 and £1. 17. 9 off Barna and Shelton accounts respectively Mr Standa can prove them if necessary according to his proof.

The original accounts sent in by Shelton must all be produced & will be important as showing on whose credit the work was really done. Shelton should also be authorized to produce his books showing against whom the original entries were made.

Mr Stephen Standa is the proper person to call and not his brother. That of the latter information must be necessary & I cannot assure that it will be sufficient to call him.

J. Atkinson Esq.
22.2.92.
Stamps

New Banker
- 10m -

In the High Court of Justice

Queen Bench Division

by Assets &^{ty}

— v —
Trusts

by

Opinion on Evidence

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Pratt Church & Adams

61 Lincoln Inn Fields