

*Privy Council Appeal No. 117 of 1913.*

**John Black and others** - - - *Appellants,*

*v.*

**John Carson and others** - - - *Respondents,*

AND

**The Crown Reserve Mining Company** - *Mis-en-Cause.*

FROM

THE COURT OF KING'S BENCH FOR THE PROVINCE OF  
QUEBEC (APPEAL SIDE).

---

JUDGMENT OF THE LORDS OF THE JUDICIAL COMMITTEE OF  
THE PRIVY COUNCIL, DELIVERED THE 6TH MAY 1914.

---

*Present at the Hearing :*

LORD DUNEDIN.

LORD PARKER OF WADDINGTON.

LOR MOULTON.

LORD SUMNER.

[*Delivered by LORD DUNEDIN.*]

---

The question raised here is a very short one.

A certain set of gentlemen saw their way to acquire a mine. They subscribed between themselves certain sums of money which were sufficient to pay the deposit which was necessary in order to make a tender to the Government, and at the same time they entered into an agreement between themselves which provisionally foreshadowed the arrangement which they would make, assuming that their tender was accepted. Their Lordships need not go particularly into that agreement, because in the sequel it was entirely superseded by a formal agreement which was made. Their tender was accepted, and they then entered into an arrangement between themselves which was of this character : they agreed

that a Company should be formed, and that they, the trustees in whose name the offer had been made to the Government and had been accepted, should transfer the mine which they had got from the Government to the Company in return for the whole of the shares of that Company. The shares were to be of a nominal value of nearly two million dollars. They then arranged as to how these shares of the Company were to be dealt with. They were to be dealt with practically in three portions, one portion was to be given to the original subscribers to the syndicate in proportion to the amounts which they had subscribed; another portion was to be disposed of in order to pay to the Government the balance of the price still due, without which, of course, it would not have been possible for the syndicate to get the transfer of the mine, or to make the transfer to the Company; then a third portion, the balance, was to be dealt with in the way in which the agreement particularly provides by Article 7 which is as follows: "It is further agreed that the balance of the said stock, namely, 569,950 shares, shall be transferred by the said trustees to the directors of the Company for the purpose of providing funds for the organising of the said Company, and for working capital, as the said directors may deem prudent from time to time."

Now it must be remembered what the condition of the Company at this time was. The condition of the Company was that it had got the mine, but that it had parted with all its shares, and had therefore no means whatsoever of raising money for the moment from the public. It was therefore absolutely necessary that it should have a working capital. Accordingly this clause not unambiguously provides that it shall get these 569,950 shares as working capital.

Now the present suit is brought by the gentlemen who either were, or are now the representatives of, the original subscribers, and they seek a declaration that that portion of the 569,950 shares which had not been disposed of should be declared to be held in their interest, and not in the interest of the Company. They back that up by saying "You have disposed of all the shares that you found it necessary as a matter of fact to dispose of in order to provide a working capital; you are very prosperous, and there is no prospect in the future that you will need any more working capital, and therefore there is a resulting trust in favour of us."

Their Lordships agree with the view that has been taken in the Court below, that this is not really a case of a trust at all; that the phrase "for the purpose of providing funds" simply shows the way in which those funds are to be used and the reason why those funds were given, but do not put any limitation upon the beneficial interest which was transferred. If that is so, the whole case fails, and their Lordships will humbly advise His Majesty to dismiss the appeal with costs.

---

In the Privy Council.

---

JOHN BLACK AND OTHERS

v.

JOHN CARSON AND OTHERS,

AND

THE CROWN RESERVE MINING  
COMPANY.

---

DELIVERED BY LORD DUNEDIN.

LONDON :

PRINTED BY EYRE AND SPOTTISWOODE, LTD.  
PRINTERS TO THE KING'S MOST EXCELLENT MAJESTY.

1914.