

## MAGISTRATES COURT.

### Platonoff v. Farleigh Mill.

In the Magistrates Court, Thomas Platonoff, of Farleigh, laborer, brought an action against the Farleigh Cooperative Sugar Milling Association Ltd., claiming £154/3/7.

Mr. W. A. Amlet appeared for plaintiff and Mr. J. Condie (Wright & Wright) for the defendant association.

The claim was for money stated to be payable by the defendant between August, 1930, and May, 1931, for sugar-cane sold and delivered during the crushing season of 1930 to the defendant by Vera Platonoff and Agnes Kurtish, and by them assigned, on February 22, 1930, to the plaintiff, whereof defendant had notice on March 6, 1930, and claimed £147/8/7 and £6/15/- interest—total £154/3/7.

The defendant denied that any moneys were at any time payable by the defendant to Vera Platonoff and Agnes Kurtish for sugar-cane sold and delivered by them to the defendant; the defendant denied that Vera Platonoff and Agnes Kurtish, or either of them, at any time assigned to the plaintiff any debt due to them or either of them from the defendant; the defendant denied that any notice of the alleged assignment was even given to the defendant in writing or otherwise; that prior to March 6, 1930, Vera Platonoff became indebted to the defendant in the sum of £253/17/1 for goods supplied, and the amount was still owing; and the defendant claimed to set off the amount of the said debt of Vera Platonoff against plaintiff's claim.

Giving evidence, Vera Platonoff, wife of plaintiff, stated that she and her mother, Agnes Kurtish, had a farm in the Farleigh district and supplied cane to the Farleigh mill. On February 22, 1930, witness and

given cane to the Farleigh mill. On February 22, 1930, witness and Agnes Kurtish gave Thomas Platonoff, her husband, a lien to secure £147/8/7 and interest at 6 per cent. They still owed Thomas Platonoff that amount and interest which at the time of the action amounted to £6/15/-. During the crushing season of 1930 she supplied cane to Farleigh. Prior to March 6, 1931, she did not become indebted to the company for £253/17/1 for goods supplied. A statement of accounts for 1930 was produced, and witness said that the cane proceeds credited to Vera Platonoff really belonged to Platonoff and Kurtish. She had given notice to the Farleigh mill about the lien; she handed it to Mr. Christoe, who told her that it would have to be given in writing. Notice was made out in writing and she got her husband to take it down. She still maintained that the mill held money to her credit to satisfy the lien.

Cross-examined by Mr. Condie, witness said that the mill still held £154, with interest. Her husband instituted garnishee proceedings against Farleigh mill some time back, following on a judgment given in the Industrial Magistrate Court to which she consented. Subsequently a garnishee order was issued on that judgment against Farleigh mill on December 3, 1930.

Mr. Condie then tendered the Court record of the action—Thomas Platonoff (judgment creditor), Vera Platonoff (judgment debtor), and Farleigh Cooperative Sugar Milling Association Ltd. (garnishee).

Witness said that on September 27, 1929, she signed a lien in favor of Ventura & Co. She received slips from the mill for cane supplied in 1929; these were made out in various names. In 1930 she received slips in her name for cane supplied and she had given receipts in her

and she had given receipts in her name for moneys paid on her account for wages. In 1930 cane was supplied in her name and all accounts went out in her name.

Mr. Condie cross-examined witness on evidence given by her in a previous action, a record of which was tendered. On September 27, 1929, she personally signed a lien in favor of Ventura & Co. The fact that her mother's name did not appear in the 'Gazette' notice relating to cane land assignments was not her fault. It was the mistake of the Government. The whole of the 1930 crop was supplied to the Farleigh mill in her name on legal advice. Men were waiting for their money. Chierness was waiting for £27/12/- and Egnatoff was waiting for £27/12/-. On February 22, 1930, Mrs. Kurtish and witness signed a lien to Sam Shegloff for £5, and on February 22, 1930, they also executed a lien to Egnatoff for £27/12/- and Chierness for £58/6/6.

Re-examined by Mr. Amlet, witness said that the lien to Ventura & Co. was for £28. She did not know which lien was notified first. She had notified Platonoff, but not the others.

Mr. Condie admitted that on April 29, 1930, Mr. A. Gardner, acting as agent for the lienees, notified the mill of the registration of the crop liens in favor of Chierness, Shegloff, and Egnatoff.

To Mr. Amlet, witness that £235/18/8 was shown in her favor in the mill statement. If the mill paid that amount to Ventura & Co. it was without her authority. The mill had enough of her money to pay the £250 which she owed in 1929, but the money had been paid to Ventura & Co. The mill had the right to deduct 10/- a ton from her share for payment of accounts.

To Mr. Condie, witness said that about £144 of the 1929 proceeds should

about £144 of the 1929 proceeds should have been paid to her. She did not know until the last minute that the 1929 proceeds were going to Ventura & Co. She thought 10/- a ton was being deducted for payment of the store account. She remembered getting an account in 1929 for a credit of £30. Mr. Christoe did not tell her

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that he had made a mistake in the statement.

To Mr. Amlet, witness said that she had told the secretary of the mill to hang on her share of 10/- a ton to pay the store account. She found out at the end of the 1929 crushing that the 10/- a ton was not being paid to the store account. She had told Mr. Christoe not to worry about the wages owing, but to hang on to the 10/- for the store account.

To Mr. Condie, witness said that she had sworn in the garnishee order proceedings that in the 1929 season she received statements from the mill. She also said that those statements showed that the money was being paid to the National Bank to Ventura & Co's. account. She went to the mill and complained about how the money was being paid.

Thomas Platonoff stated that he was the husband of Vera Platonoff, and in 1929 he did work for his wife, Agnes Kurtish and his wife gave him a crop lien in payment of wages. Mr. A. Gardner registered the lien, and witness took the written notice to Mr. Christoe, secretary of Farleigh Cooperative Sugar Milling Association Ltd. He did not receive any money as a result of that crop lien. He now claimed £147/8/7 for wages and £6/15/- for interest.

Cross-examined by Mr. Condie, witness said that on December 2, 1929

Cross-examined by Mr. Condie, witness said that on December 3, 1930, he obtained a garnishee order against the Farleigh mill attaching moneys purporting to be owing to Vera Platonoff by the mill, and she had told him that the mill owed her £147/8/7. It was on the faith of that statement that he got his garnishee order. After that, Ventura & Co. and Goff & Co. claimed that moneys held by the mill belonged to them, and the case was tried to decide whether there was any money payable to him under the garnishee. In those proceedings Vera Platonoff appeared on his behalf. She gave her evidence, and evidence was given by Mr. Dunworth and Mr. Christoe, which appears on the record of the last hearing. The P.M. in that action found that the mill was not liable to pay him any sum. The proceedings were brought on the basis of the mill owing Vera Platonoff money alone, and on the basis of Vera Platonoff having supplied cane to the mill during the 1930 season herself. It was in respect of the 1930 supply of cane that he made his affidavit. He issued a summons against his wife for wages, and she came to Court and said that she owed the money and consented to judgment for £203/2/5. The judgment debt was against Vera Platonoff.

Mr. Amiet intimated that this was the case for the plaintiff, and Mr. Condie applied for a non-suit against plaintiff. After hearing legal argument, the P.M. said that he would like to hear the evidence of defendant.

For the defence, William Herbert Berwick Christoe stated that he was secretary of the Farleigh Cooperative Sugar Milling Association Ltd. In 1929 and 1930 Vera Platonoff was a canegrower supplying cane to Farleigh mill. Witness corroborated statements he had made in a previous case. During the 1929 season cane

case. During the 1929 season cane was supplied to Farleigh mill in the name of Vera Platonoff; no cane at any time was delivered in the name of Platonoff and Kurtish or Kurtish alone. Agnes Kurtish never communicated with the mill either verbally or by letter. Vera Platonoff dealt with

the company at all times in relation to the cane supplied during 1929 and 1930. All statements of accounts were rendered to Vera Platonoff and she signed all receipts for money paid away for wages under her instructions. After the closing of accounts for the 1929 and 1930 seasons there were certain shares available to the farmers. Vera Platonoff made application for the shares in respect of the cane supplied from this land. The shares were issued in her name. She subsequently transferred them over to a third party. A total of £667/5/5 in value of cane was supplied in 1929. No claim had been made by Mrs. Kurtish in respect of the shares or in respect of any moneys for cane supplied from this land. In consequence of the crop lien by Ventura & Co., to the National Bank, proceeds were paid to the bank, and monthly statements were given to Vera Platonoff. He remembered issuing a statement showing a credit of £30. Shortly after the issue of that statement he communicated with Mrs. Plantonoff. He advised her that under the crop lien all proceeds from the cane had to go to Ventura & Co. He told her of the crop lien. A statement of the money owing by Vera Platonoff to the mill was produced and none of the accounts had been paid except by the offset of moneys held in respect of payment of cane. After taking into account the debt, a credit of £42/16/11

account the debt, a credit of £42/16/11 remained. The matter was fully investigated in the garnishee proceedings, when the P.M. found that the garnishee was not liable to pay judgment creditor. In consequence of those proceedings the sum of £42/16/11 was paid to Ventura & Co. He remembered a crop lien that was given by Platonoff and Kurtish to Thomas Platonoff. He was first advised of the lien by Vera Platonoff and then by Thomas Platonoff under cover of a letter. There was no money owing by the mill to Platonoff and Kurtish. The mill never knew Mrs. Kurtish in connection with the supply of cane from this land. At the time Vera Platonoff gave a lien to Ventura & Co. he knew her as the cane supplier from that land.

Cross-examined by Mr. Amiet, witness said that £42/16/11 was the only sum Ventura & Co. got out of the 1930 crushing season. They got what was left after the mill had protected itself. The last 14 tons 13cwt. of cane, as shown, in 1930, would be delivered during the four weeks prior to December 1, and the 24 tons 4cwt. 1qr. prior to November 14, and 3 tons 18cwt. 2qr. prior to October 17. The lien would expire on September 27, 1930. The lien on February 16, 1929, was given by Ventura & Dunworth. They had sold some of the land to Goli & Co. All the mill was concerned about was that Ventura & Dunworth were the registered proprietors of the land. Witness knew that Goli supplied cane, but he did not know the terms of purchase of the land. In 1928 and 1929 Goli sent the cane in under Ventura & Co.'s name. All proceeds were paid to Ventura & Co. The lien of February, 1929, was for £10 and further advances, and up to date duty had been paid up to £50. He had not received notice from the National Bank that advances beyond £50 had been made.

bank that advances beyond £50 had been made. Mrs. Platonoff saw him at the beginning of the season and said she was to get 10/ a ton and asked him to supply her with goods out of the 10/ a ton. She was supplied, and at the time he started

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supplying goods he expected to be paid out of the 10/. In the latter part of August or early in September he learned that he was not to get anything out of the 10/. He continued to supply goods on the assurance of Mr. Dunworth that the accounts would be all right. Goods to the value of £16/5/8 were supplied in September, 1929; £22/7/10 in October; £18/10/5 in November, £12/5/3 in December; and £3/11/9 in January. Mr. Dunworth did not actually promise to pay, but said that there would be money available to meet the accounts. If there had been no goods as a set-off the mill would be holding a fair amount of money for Mrs. Platonoff.

Re-examined by Mr. Condie, witness said that he had not received notice from the lienors not to apply money by virtue of the lien. He received notice of the lien of September 27, 1929, from Platonoff to Ventura & Co. It would be shortly after the execution of the lien that he received notice.

Decision was adjourned until a date to be fixed.