

were thereupon sold together for £26, making £13 for each.—and the remaining two of the lots for which this action was instituted, and which were included in the item No. 7, were afterwards sold by the order of John Ayer, (and by that alone) for £28.

All the three lots in question were therefore sold after the entire amount of the sum which the parties had specially agreed to levy, and which the judgment and the execution had authorized to be levied, had been fully realised.

The sale of the lots in question having thus been made without authority, was altogether a nullity, and as to them, of no effect whatever.

The result of what has been said is, that in the opinion of this Court, the appellant is the true and lawful proprietor of the lots demanded in his declaration in this cause fyled, and entitled to recover.

Let the judgment of the Court below, therefore be reversed with costs to the appellant, as well in the Court below as in this Court.—The sale before Lallanne, notary, of the 25th January, 1825, by Heth Baldwin, to Daniel Ayer, and by the Sheriff of Montreal, to John Ayer, on the 23d of September, 1828, be declared, as to the three lots in question, null and of no effect whatever, and let judgment be entered up in all other respects, according to the conclusions of the declaration of the appellant in this cause fyled, reserving to the appellant such legal recourse for the rents, issues and profits of the said three lots in question as he may be advised and see fit to adopt.