

Held, also, following *Stephens v. McArthur*, 6 M. R. 496, notwithstanding the decisions of the Ontario Court of Appeal in *Johnson v. Hope*, 17 A. R. 10 and *Ashley v. Brown*, ib. 500, that it is not necessary to show notice to the transferee of the debtor's insolvent condition; but that, in any case, the defendant, though direct notice to him was not proved, had such a knowledge of W.'s financial position, that constructive notice of his insolvency should be imputed to defendant: *National Bank of Australasia v. Morris*, (1892) A. C. 287.

A. J. Andrews and Maulson, for plaintiff. *Perdue and Rothwell*, for defendant.

Bain, J.] SWORD v. TEDDER. [Oct. 17.

Contract of sale—Construction of covenants—Dependent or independent.

The plaintiff's claim was for payment of the balance of the purchase money of land under an agreement of sale in the usual form in which the purchaser covenanted that he would well and truly pay . . . the said sum of money together with the interest thereon on the days and times mentioned, and the vendor covenanted that in consideration of the purchaser's covenant and on payment, etc., he would convey and assure, or cause to be conveyed and assured to the purchaser, his heirs and assigns, by a good and sufficient deed in fee simple, etc., the said piece or parcel of land freed and discharged from all incumbrances.

Held, following *Macarthur v. Leckie*, 9 M. R. 110, that the two covenants were independent, and that the defendant was bound to pay the purchase money before he could call on the plaintiff to convey the property and that it was not necessary for the plaintiff to prove the tender of a conveyance or to allege that he was ready and willing to convey, although it appeared that the property was subject to two mortgages.

With the plaintiff's consent the defendant's purchase money was ordered to be paid into Court so that the incumbrances could be discharged out of it and only the balance paid to the plaintiff.

Howell, K.C., and Caldwell, K.C., for plaintiff. *Bradshaw and Affleck*, for defendant.

Province of British Columbia.

SUPREME COURT.

Walkem, J.] VANCOUVER AGENCY v. QUIGLEY. [May 4.
Practice—Special endorsement—Omission of words "Statement of Claim."

Summons for judgment under Order XIV. *Bowser*, K.C., for application.

Creagh, Davis, Marshall and Macneil, contra, took the preliminary objection that the writ was not specially endorsed in that the words "Statement of claim" were omitted, and cited in support *Cassidy v. M'Aloon* (1893) 32 L.R. Ir. 368.

WALKEM, J., held that the objection was fatal and dismissed the application with costs.

ERRATUM.—P. 693 ante, line 22, for "secured" read "refused."