

HIGH COURT OF JUSTICE.

Boyd, C., and Ferguson, J.]

[Feb. 13.

FORD v. HODGSON.

*Vendors' lien — Timber — Cutting of — Piled on land — Identification—
Injunction.*

St. G., the owner of land by an agreement in writing, sold all the timber on it to E., taking promissory notes in payment. E. assigned all his interest in the agreement to S., his principal, who made the notes and E. endorsed them to St. G. S. cut and removed considerable timber from the land and cut and piled on the land a lot of cordwood which he sold to the defendant but did not pay the notes. St. G. sold the land and all her interest in the timber and the notes to the plaintiff. Defendant sought to remove the wood, but the plaintiff obtained an injunction restraining him and claimed a vendors' lien.

Held, that the sale of timber to be removed in three years by the purchaser was of an interest in land, and in respect of which a vendors' lien arose by operation of law, which was not displaced by the cutting or sale of the timber as long as it could be indentified and remained on the land, and the remedy was by injunction and enforcement of the lien. *Summers v. Cook* (1880) 28 Gr. 179, followed.

Judgment of FALCONBRIDGE, C.J.K.B., affirmed.

Riddell, K.C., for the appeal. *R. J. McLaughlin*, contra.

Falconbridge, C.J.K.B., Britton, J.]

[March 13.

TORONTO GENERAL TRUSTS CORPORATION v. WHITE.

*Arbitration and award — Valuation of buildings on leasehold land—
Interest on amount fixed by award.*

In a lease for twenty-one years, it was provided that the buildings should be valued at the end of the term by three valuers or arbitrators, whose award should be made within the six months next preceding November 1st, 1900, and the value paid by the lessor within six months from that date with interest from that date. Valuers or arbitrators were duly appointed and possession given by the lessees on October 31st, 1900, the last day of the term, but the award was not made until November 30th, 1901.

Held, that the lessees were entitled to interest on the value of the buildings, as ascertained by the award, from November 1st, 1900.

Judgment of MACMAHON, J., reversed.

Frank E. Hodgins, for the appeal. *Laidlaw*, K.C., contra.