question in the case; for though he pleaded also a permission, and there was a qualified permission, there can be no pretence that the defendant ever acquired the right to take these cedar stumps which belonged to the plaintiff, and convert them into shingles without paying him anything for the material. The judgment dismissed the plaintiff's action, regarding the permission as proved. We do not take the same view of the evidence. The conclusion of the action asked for the thing revendicated or for $125 as the value of the thing. Under the law regarding the right of accession in relation to moveable property, of which article 435 C.C. is the principal expression—as relied on by the defendant—we say now, as we said at the hearing, that this is in principle and effect an expropriation, and the defendant cannot expropriate or acquire in his own person the right of property, without first paying the original proprietor. He should have pleaded in good faith, and offered the $125. We therefore reverse, and condemn the defendant to pay the value ($125), and costs below, and here.

Brooks, Camirand & Hurd, for plaintiff.

Hall, White & Panneton, for defendant.

COURT OF REVIEW.

MONTREAL, May 31, 1882.

JOHNSON, TORRANCE, RAINVILLE, JJ.

[From C.C., Beauharnois.

LABERGE v. RODIER.

Rente viagère—Action by transferee—Opposition à fin de charge by transferor.

The case was inscribed by the plaintiff, in Review of a judgment of the Circuit Court, Beauharnois, Bélanger, J.

JOHNSON, J. The plaintiff is *cessionnaire* of a *rente viagère* due by defendant under his title from the Sheriff.

An old lady by the name of Marguerite Gélineau—at least that was her maiden name—widow of Pierre Emard—was entitled to this *rente*, under a donation made by her and her husband, and the property chargeable with it had changed hands several times until it got into the possession of the defendant under a sheriff's sale; but it was still chargeable with the rent—an opposition *à fin de charge* having been allowed. Before the sheriff's sale the old lady had sold her right to the plaintiff in this case; and after the sheriff's sale he, the present plaintiff, signified the transfer to the defendant, who, on being sued for the amount by the transferee, the present plaintiff, contends that the title to the *rente* in question is not the transfer to the plaintiff; but the judgment on the opposition *afin de charge*, which was made by Marguerite Gélineau, and granted to her in her own name. The Court is of opinion that the judgment on the opposition is not the foundation, or the only foundation, of Marguerite Gélineau's right. That judgment only preserved the right, whatever it might have been; and its having been transferred to Laberge did not prevent its being asserted in her name by the opposition; and the signification by plaintiff of the transfer to him after the sheriff's sale can make no difference. The action itself would have been sufficient notice apart from the question of costs. Therefore, we must reverse this judgment which maintained the defendant's plea.

T. Brossoit, for plaintiff.

L. A. Seers, for defendant.

COURT OF REVIEW.

MONTREAL, May 31, 1882.

JOHNSON, TORRANCE, RAINVILLE, JJ.

[From S.C., Ottawa.

WRIGHT v. MOREAU et ux.

Rentes constituées—Liability of détenteur.

The détenteur of a property subject to a constituted rent is not personally liable therefor, in the absence of any personal undertaking on his part.

The inscription was by the defendant, in Review of a judgment rendered by the Superior Court, District of Ottawa, McDougall, J., Jan. 26, 1882.

JOHNSON, J. The question in this case is one of extreme simplicity. On the 4th November, 1833, Wright, or his predecessors, sold to the father of the present defendants, a lot of land. On the 22nd July, 1869, the father gave to his son and to his wife the same lot subject to a life rent to the donor. In this donation there is no mention whatever of the *rente constituée* for which the present action is brought against the defendants, to recover from them personally. The only point made at the hearing was that the plaintiff, who is trying to recover a *rente constituée* created by the first deed, has no