

Nos. 45 and 46 to George Pyke, by whom, on the same day, they were sold and conveyed to the appellant; and on the 6th of April, 1833, the acts of sale and conveyance from Baldwin to Bowen and to Pyke, and by the latter to Bowen, were duly enregistered in the Shefford County Register Office.

The prayer of the declaration is that the appellant may be declared to be the true and lawful proprietor of the lots in question, and the respondent adjudged to quit, abandon and deliver to the appellant the possession of the said lots of land with the rents, issues and profits; and further that certain deeds of sale which are mentioned incidentally in the declaration and under which the respondent claims title to the said lots, may be declared null and void and of no effect in law.

To this demand the respondent pleads a sale before Lalanne, a notary, by the same Heth Baldwin, of the same lots numbers 44, 45 and 46, to Daniel Ayer, the respondent's father, dated 24th January, 1825. A prise de possession by Daniel Ayer, and actual occupation thereof until the 15th July, 1828, and that on day the said lots were sold to the respondent by the Sheriff of Montreal under a writ of execution: and issue upon the legal effect of these titles respectively has been taken.

The court below, however, have decided, not on the merits but on the ground, that it was in evidence, that, one Ebenezer Hill and one Joseph Clarke were the proprietors and in possession of the lots in question.

But the evidence in support of this allegation is, as to Hill, an acte executed before one notary only, and without a single witness; and as to Clarke, an acte sous seing privé, without seal, and without any proof of the signature of either of the parties; certified it is true by one notary to have been deposited with him, not by the parties, or either of them, but by a third person, of whose right to acknowledge their signatures or to deposit the acte there is no evidence whatsoever. It is obvious therefore that the Judgment on this ground cannot be supported, and we must proceed to the consideration of the merits.