

an attachment before judgment with the consent of the defendant and without any reserve, this latter cannot afterwards claim damages from the plaintiff for malicious prosecution.

3. Where a party to a transaction does not fulfill the conditions of the contract, the other party has the right to demand the entire execution of the agreement and damages, but he cannot demand the cancellation of the transaction, if it be impossible to replace the parties in the same condition as they were before.

4. Where the plaintiff, in an attachment before judgment, falsely alleges the insolvency of the defendant, and persists in this allegation, even after he had desisted from his seizure, he may be, in a cross demand, condemned in damages.

The judgment of the Superior Court, in the principal action, was affirmed; and, in the cross demand, was reversed. It had been rendered by Mr. Justice Demers, on February 19, 1918.

The action instituted during May 1917, is a *saisie-arrêt* before judgment *en mains tierces*, for \$26,655.23 for coal sold and delivered. The ground of the attachment was fraudulent secretion and insolvency. Moreover, plaintiff alleged that part of the good was *in transit*, and plaintiff claims a privilege of unpaid vendor.

On August 29, 1917, the parties entered into a transaction whereby they agreed to submit all matters in controversy between them to the Superior Court, at Montreal, is the suit now pending under number 2839.

The defendant denies the plaintiff's privilege, and its own insolvency and indebtedness towards plaintiff. It also denies the jurisdiction of the Court, at Montreal, the contract having being entered upon in the State of Pennsylvania. It avers that the coal was by it sold and delivered to the garnishees, the Century Coal & Cook Company, ...