

HON. MR. JUSTICE RIDDELL.

NOVEMBER 9TH, 1912.

SINGLE COURT.

RE MATCH v. CLAVIR.

4 O. W. N. 263.

*Vendor and Purchaser — Deficiency in Frontage — Encroachment — Estoppel—Possession not Notice—Presumption of Accuracy in Conveyance of  $\frac{3}{4}$  of an Inch—Innocent Purchaser.*

Application by vendor under Vendor and Purchasers Act, 10 Edw. VII. ch. 58, for a declaration that he could make a good title to certain lands. Vendor had been deeded 25 feet of a certain lot on which he understood there was a shop, later he found that the shop encroached  $\frac{3}{4}$  of an inch upon the adjoining land and sought and obtained a deed of a strip  $\frac{3}{4}$ -inch in width. When later he attempted to convey, he found the shop still encroached on the neighbouring lands  $2\frac{1}{4}$  inches in the rear. He attempted to make title on the ground that the owner of the neighbouring lands was the vendor to him of the shop, and under the circumstances of the conveyance he was estopped from setting up the deficiency.

RIDDELL, J., *held*, that vendor could not make a good title.

That the fact that a deed of  $\frac{3}{4}$  of an inch is to be found on the register is a strong presumption of accuracy.

That possession is not in itself notice.

*Waters v. Shade*, 2 Gr. 457; *Sherboneau v. Jeffs*, 15 Gr. 574, referred to.

Motion by vendor under Vendor and Purchasers Act, for an order declaring that he can make a good title to the land in question.

A. McGregor, for the vendor.

J. H. Cooke, for the purchaser.

HON. MR. JUSTICE RIDDELL:—In this matter being an application under the Vendor and Purchasers Act (1910), 10 Edw. VII., ch. 58, one Membrey owned a certain lot, No. 88, on the north side of St. Clair avenue. He made a contract with a firm of builders, Robinson & Burgess, to build a store on the eastern part of this lot. He told this firm to be very careful to keep within the eastern limit of the lot, but that he was not particular about the west line, as he owned the whole lot anyway. The building was to be 25 feet wide. A Mechanics' Lien action was brought against him by the builders and this was settled according to the official stenographer's note, as follows:—

This case is settled. Each party to pay their own costs. It is hereby agreed and this case is hereby settled on the