

Sup. Ct.]

NOTES OF CANADIAN CASES.

[Sup. Ct.]

below, GWYNNE, J. dissenting), that, as the directors had no power at that time to increase the capital of the company, the stock for which A. or his assignor subscribed had no legal existence, and therefore *P. et al.* were not entitled to recover.

When a statutory liability is attempted to be imposed on a party which can only attach to an actual legal shareholder in a company, he is not estopped by the mere fact of having received transfers of certificates of stock he supposed to be in existence from questioning the legality of the issue of such stock.

Appeal dismissed with costs.

Bethune, Q.C., for appellant.

Robinson, Q.C., for respondent.

From Manitoba.]

MAY V. MACARTHUR ET AL.

Contract of sale—Rescission of—False representations—Fraud—Joint liability of parties who received consideration.

M. filed a bill to set aside the sale of a parcel of land in the parish of St. John, described in the deed to M. as being block No. 35, containing fifty-two lots according to plan registered alleging conspiracy and false and fraudulent misrepresentations. The sale to M. was effected under the following circumstances:—McL. and McA. were interested in a contract with the Bishop of Rupert's Land for the purchase of three blocks of land containing fifty-two lots each, and McL. with McA.'s consent and sanction came to Toronto to sell the land. In Toronto one G. met McL. and agreed with him to find purchasers, G. to get any money over \$100 per lot. G. thereupon solicited M. to purchase the land, stating that he had secured the lots for a very short time at \$150 per lot, but that right was contingent upon his taking all the lots contained in the three blocks offered for sale, and represented that one block of the land in question was facing McPhillips Street. M. said he would purchase, provided G. and one D. and himself were co-partners or joint investors in the three blocks. An agreement was signed to that effect, but it was ultimately agreed that M. should pay for and take the conveyance to himself of block 33 at \$150 per lot. G. filled up a conveyance which had been signed in blank by McL. of

lot 35 from McA. to M., and induced him to accept it without further inquiry by producing and delivering a guarantee from McL. that he had a power of attorney from McA., and that the plan was registered and title was perfect. M. paid \$5,200 cash and gave a mortgage for \$2,500. G. got \$2,500 of this purchase money. M. subsequently ascertained that the block of land in question did not front on McPhillips Street, and that G. and D. were not joint investors with him, and that statements in the guarantee were false. By his bill M. prayed that the sale be set aside, the portion of the purchase money already paid be repaid to him, and that the mortgage given to secure payment of the remainder cancelled.

Held, that the false and fraudulent representations made by G. and McL. entitled M. to the relief prayed for against McA. and McL. and G. jointly and severally.

Appeal allowed with costs.

Robinson, Q.C., for appellant.

Lash, Q.C., and *Moss, Q.C.*, for respondents.

From Manitoba.]

HOOD V. MCINTYRE.

Property—Offer to sell—Acceptance on completion of title—Specific performance.

On the 26th of January, 1882, McL. wrote to H. as follows: "I, Alex. McIntyre, agree to take \$35,000 for property known as McMicken Block. Terms one-third cash, balance in one year at 8 per cent. per annum; open until Saturday 28th noon." On the same day he accepted this offer in the following terms: "I beg to accept your offer made this morning. I will accept the property known as McMicken Block, being the property on Main Street, for \$35,000, payable one-third cash on completion of title, and balance in one year at 8 per cent. You will please have papers and abstract submitted by your solicitor to N. F. Hagel, Esq., 22 Donaldson's Block, as soon as possible, that I may get conveyance and give mortgage."

The property was then under lease of which H. had notice. On a bill for specific performance, the Court of Q.B. (Man.), decreed that H. was entitled to have said agreement specifically performed. On appeal to the Supreme Court of Canada.