

below, that as there was evidence that F. McC. had led G.B. to believe that under the contracts he was to have the use of the booms free in consideration for the repairs made by him to the piers, etc., F. McC. was estopped by conduct from claiming the dues he might otherwise have been authorized to collect.

*Held*, further, that even if F. McC.'s right of action was authorized by the statute, the amount claimed was fully compensated by the amount expended in repairs for him by G.B.

Appeal allowed with costs.

*Laflamme, Q.C., and Charbonneau* for appellant.

*Hoonan* for respondent.

*Brodeur* for the Attorney-General.

LA SOCIÉTÉ CANADIENNE-FRANCAISE  
v. DAVELUY.

*Acquiescence in judgment—Attorney ad litem—Right of appeal—Building society—C.S.L.C. c. 69—By-laws—Transfer of shares—Pledge—Art. 1970 C.C.—Insolvent creditor's right of action—Art. 1981 C.C.*

By a judgment of the Court of Queen's Bench the defendant society was ordered to deliver up certain number of its shares upon payment of a certain sum. Before the time for appealing expired, the attorney *ad litem* for the defendant delivered the shares to the plaintiffs' attorney, and stated he would not appeal if the society were paid the amount directed to be paid. An appeal was subsequently taken before the plaintiffs' attorney complied with the terms of the offer. On a motion to quash the appeal on the ground of acquiescence in the judgment,

*Held*, that the appeal would lie.

*Per* TASCHEREAU, J.: That an attorney *ad litem* has no authority to bind his client not to appeal by an agreement with the opposing attorney that no appeal would be taken.

A by-law of a building society (appellants) required that a shareholder should have satisfied all his obligations to the society before he should be at liberty to transfer his shares. One P., a director, in contravention of the by-law, induced the secretary to countersign a transfer of his shares to the Banque Ville Marie as collateral security for an amount he borrowed from the bank, and it was not till P.'s abandonment or assignment for the benefit of his creditors that

the other directors knew of the transfer to the bank, although at the time of his assignment P. was indebted to the appellant society in a sum of \$3744, for which amount, under the by-law, his shares were charged as between P. and the society. The society immediately paid the bank the amount due by P. and took an assignment of the shares of P.'s debt. The shares being worth more than the amount due to the bank, the curator to the insolvent estate of P. brought an action, claiming the shares as forming part of the insolvent's estate, and with the action tendered the amount due by P. to the bank. The society claimed the shares were pledged to them for the whole amount of P.'s indebtedness to them under the by-laws.

*Held*, reversing the judgment of the Court of Queen's Bench for Lower Canada (Appeal side) and restoring the judgment of the Superior Court, that the payment by the society of the bank's claim annulled and cancelled the transfer made by P. in fraud of the company's rights, and that the shares in question must be held as having always been charged under the by-laws with the amount of P.'s indebtedness to the society, and that his creditors had only the same rights in respect of these shares as P. himself had when he made the abandonment of his property, viz., to get the shares upon payment of P.'s indebtedness to the society (FOURNIER and TASCHEREAU, JJ., dissenting).

Appeal allowed with costs.

*Laflamme, Q.C., and Charpentier* for appellant.

*Beique, Q.C.,* for respondent.

DORION v. DORION.

*Substitution—Curator to—Action to account—Indivisibility of—Will—Construction—Transfer—Effect of—Sale of rights—Mandatory—Negotiorum gestor—Parties to suit for partition—Art. 920 C.C.P.—Purchase by heir while curator—Art. 1484 C.C.*

P.A.A.D. (respondent), as representing the institutes and substitutes under the will of the late J.D., brought an action against J.B.T.D. (appellant), who was one of the institutes, and had acted as curator and administrator of the estate for a certain time, for reddition of an account of three particular sums which the plaintiff alleged the defendant had received while he was curator.

*Held*, reversing the judgment of the court be-