

Full Court.]

[May 8.

McASKILL v. POWER.

*Bill of sale—Insufficient description—Finding of trial judge as to question of property—Form of execution—Protection of sheriff.*

A bill of sale given by M. to plaintiff described the property conveyed as follows: "One horse or mare, three cows, two heifers, sheep, cart, all my farming implements."

*Held*, that the description was insufficient.

The evidence showed that M., being about to leave the Province, sold his farm, stock, etc., to plaintiff, but returned in a short time, and occupied the farm under an agreement to redeem it, and treated the stock as his own, selling and otherwise disposing of it as he saw fit.

*Held*, in an action brought by plaintiff against the defendant sheriff who levied upon the stock in satisfaction of a judgment recovered against M., that the trial judge was right in finding the property levied upon to be that of M.

*Held*, further, that an execution not entitled in the cause, but giving the names of the parties to the cause in which the judgment was recovered, and the date and amount, was valid and sufficient to protect the sheriff.

*W. A. Henry*, for appellant.

*J. A. Chisholm*, for respondent.

Full Court.]

[May 8.

WHITFORD v. ZINK.

*Motion for restitution of property—Costs.*

Plaintiff purchased at sheriff's sale goods of defendant which were sold under execution issued on a judgment recovered by plaintiff against defendant.

The judgment under which the sale took place was set aside and a new trial ordered. This resulted in a second judgment for plaintiff, and the goods were again sold and bought in by him, but, in the interval between the setting aside of the first judgment and the new trial, there was a motion by defendant for restitution of the property.

*Held*, that the order applied for could not be made, plaintiff having in the meantime acquired a good title under the second judgment and execution, but that defendant having been entitled to succeed at the time the motion was made was entitled to an order for his costs.

*F. B. Wade, Q.C.*, and *W. B. A. Ritchie, Q.C.*, for plaintiff.

*Drysdale, Q.C.*, for defendant.

Full Court.]

[May 8.

McDOUGALD v. MULLINS.

*Trial judge—Power to amend order for judgment in case of error in taking—Remedy by appeal—Prothonotary—Duties purely ministerial.*

At the conclusion of the evidence given on the trial a verdict, by consent, was taken for plaintiff for one dollar damages, and an order was prepared, sealed and filed. It subsequently came to the notice of the judge that the