

REPORTS AND NOTES OF CASES

Dominion of Canada.

SUPREME COURT.

Quebec.]

SALVAS v. VASSAL.

[Jan. 25.]

Title to land—Sale absolute in form—Right of redemption—Effect as to third parties—Pledge.

Real estate was conveyed to Salvas by notarial deed, absolute in form but containing a provision that the vendor should have the right to a re-conveyance on paying to Salvas the amount of the purchase money within a certain time. Salvas subsequently advanced the vendor a further amount and extended the time for redemption. The vendor did not pay the amount within the time, and the property having been seized under execution issued by Vassal, a judgment creditor of the vendor Salvas filed an opposition claiming it under the deed.

Held, reversing the judgment of the Court of Queen's Bench, that the sale to Salvas was *vente à réméré* and was not to be treated as a pledge and set aside on proof that the vendor was insolvent when it was executed.

Appeal dismissed with costs.

Geoffrion, Q.C., and *Lavergne*, for appellant.

Crepeau, Q.C., and *Beaudin*, Q.C., for respondent.

Quebec.]

MURPHY v. LABBE.

[Jan. 25.]

Lessor and lessee—Use of premises—Destruction by fire—Negligence—Burden of proof—Art. 1629 C.C.

Premises were leased to be used as a furniture factory, the lease containing the usual covenants as to repair. The premises were destroyed by fire, of which it proved to be impossible to discover the origin. In one of the rooms there was a quantity of cotton waste saturated with oil, but nothing to connect it with the fire. In an action by the lessor for the restoration of the premises or equivalent damages,

Held, STRONG, C.J., dissenting, that there was no obligation on the lessee, by virtue of Art. 1629 C.C., to excuse himself from liability by proving that the fire occurred from causes beyond his control; that negligence must be established against him as in other cases of the kind; that he is not liable if he proves that he has used the premises in the manner a prudent owner would use them; and that the presence of the saturated cotton waste was of itself no evidence of negligence.

Held, also, that the evidence of workmen of the lessee should not be discredited because they might possibly have feared convicting themselves of imprudent acts.

Beique, Q.C., and *Trenholme*, Q.C., for appellant.

Lafleur and *Fortin*, for respondent.