

only be sued for the specific performance of the obligations he had contracted under the deed of settlement.

In 1871, C. Z. D., another of the institutes, died without issue and by his will made the defendant his universal legatee. Plaintiff claimed his share in the estate under a deed of assignment made by defendant to plaintiff in 1862 of all right, title and interest in the estate.

*Held*, that the plaintiff did not acquire by the deed of 1862, the defendant's title or interest in any portion of C. Z. D.'s share under the will of 1871.

*Held*, further, that under the will of the late J. D., C. Z. D.'s share reverted to the surviving institutes and substitutes, and that all defendant took under the will of C. Z. D. was the accrued interest on the capital of the share at the time of his death.

By the judgment appealed from the defendant was condemned to render an account of his own share in the estate which he transferred to plaintiff by notarial deed in 1862, and also an account of C. D.'s share, another institute who in 1882 transferred his rights to the plaintiff. The transfer made by defendant was in his capacity of co-legatee of such rights and interests as he had at the time of the transfer, and he had at that time received the sixth of the sums for which he was sued to account.

*Held*, reversing the judgment of the Court below, that the plaintiff took nothing as regards these sums under the transfer, and even if he was entitled to anything, the defendant would not be liable in an action to account as the mandatary or *negotiorum gestor* of the plaintiff.

2. That F. D. and E. D. having acquired an interest in C. Z. D.'s share after they had transferred their shares to the plaintiff in 1869, the plaintiff could not maintain his action without making them parties to the suit. Art. 920, C. P. C.

*Per* Taschereau, J.—Was not the transfer made by the institutes E. D. and F. D. to the plaintiff while he was acting as curator to the substitution null and void under Art. 1484, C. C.?

Appeal allowed with costs.

*Lacoste, Q.C.*, and *Bonin* for appellant.

*Madore* for respondent.