

" Seeing that by law the said appellant could not be condemned to pay more than the amount due by the defendant to the seizing creditors ;

" Seeing that in addition to the amount due the seizing creditors, the said judgment condemns the said appellant to pay a sum of \$71.30 for costs to which a third party claiming the right of property in a portion of the goods seized was condemned, and which did not form part of the said amount due by the defendant to the seizing creditors, and also the interest on the sum of \$317 from the 19th day of April, 1875, instead of on the sum of \$3.17 ;

" Seeing that in the said judgment of the 16th of April, 1879, rendered by the Superior Court for the District of Bedford, there is error ;

" Doth reverse, annul and set aside the said judgment, and proceeding to render the judgment the Court below ought to have rendered, doth order that the said Henry McCaffrey be detained in the common gaol of the District of Bedford until he shall have paid to the respondents (plaintiffs below) the sum of \$372.84, amount of the condemnation in this cause, with interest upon \$262.62 from the 2nd January, 1875, on \$3.17 from the 19th April, 1875, and on \$108.05 from the 28th June, 1876, and the further sums of \$40.05, costs incurred to have the original judgment declared executory against the defendant as representing the late Patrick Mahedy, the original defendant, of \$17.50 for costs on writ of *feri facias*, of \$3.20 for costs of *venditioni exponas*, and \$30.33 for other costs incurred on said writ of *venditioni exponas*, together with the costs incurred on the rule for *contrainte par corps*, said costs hereby taxed at the sum of \$28.10. (Hon. Sir A. A. Dorion, C.J., dissenting.)"

R. & L. Laflamme for appellant.

Lacoste, Globensky & Bisailon, for respondents.

MONTREAL, June 19, 1880.

Sir A. A. DORION, C. J., MONK, J., RAMSAY, J.,  
TESSIER, J., CROSS, J.

MOAT et al. (plffs. *en gar.* below), Appellants,  
and MOISAN (petr. below), Respondent.

*Sheriff's sale—Misdescription of immoveable.*

Where the immoveable sold was described by the Sheriff as comprising certain subdivisions of an official number, as marked on the cadastre, and

as fronting on a projected street, and the official plan referred to indicated the existence of a street along the front, leading to the highway, the absence of such street was a ground for vacating the sale under C. C. P. 714.

The appeal was from a judgment of the Superior Court, Montreal, Johnson, J., Oct. 31, 1878, setting aside an adjudication to petitioner, respondent.

The question was whether certain lots of land adjudged to the respondent differed so much from the description in the minutes of seizure, that the purchaser was entitled to have the sale vacated under C. C. P. 714.

The judgment of the Court below was as follows :—

" The Court, &c. . . .

" Considering that at the time of the sale and adjudication to the petitioner on the 14th of April, 1875, of the piece of land described in the Sheriff's minutes of seizure as follows, to wit :— ' Deuxièmement : un emplacement situé ' à la Côte St. Martin, dans le Village incorporé ' d'Hochelaga, Paroisse de Montréal, faisant partie du numéro dix-sept sur le plan officiel et ' le livre de renvoi du dit Village incorporé ' d'Hochelaga, le dit lot de terre contenant les ' lots de subdivision depuis le numéro 146 jus- ' qu'au numéro 174 du dit lot numéro dix-sept, ' les deux compris, le dit emplacement contenant 725 pieds de front, mesure anglaise, sur ' 148 de profondeur, borné en front à la rue projetée ci-dessus mentionnée, en arrière aux héritiers Mathew, d'un côté au premier emplacement décrit aux dites minutes du Shérif, et de ' l'autre côté au lot de subdivision 175 du dit ' lot numéro dix-sept, avec une maison en bois ' sus-érigée ' ; there existed along the whole length of the real estate known and described as number seventeen on the cadastral plan and book of reference for the incorporated Village of Hochelaga a roadway for the use of the proprietors of said number seventeen ; that on the plan of the subdivision of the said number seventeen into lots deposited in the registry office and in the book of reference for the same, there is a strip of land marked as a projected street and numbered on the said plan and in the said book as number 364, of fifty feet wide, reserved by the plaintiffs *en garantie* as a street for the use and advantage of the future purchasers of the said lots ;