

come to the plaintiff in a completed form until between the 13th and 28th December, 1917; and on the 4th December, 1917, the Sheriff made a seizure, under an execution in his hands, of all the shares standing in the name of Hunter on the books of the company. The sale of the shares by the sheriff was postponed from time to time; on the 1st February, 1918, the defendant McTavish became the purchaser for \$750.

The money which the plaintiff lent to Hunter he procured by discounting Hunter's note with a bank in Milwaukee. It was understood between the plaintiff and the bank that the shares should be held by the bank as security, but the bank left it to the plaintiff to get the certificate from Hunter. The note being unpaid at maturity, a renewal note was signed by Hunter, dated the 16th April, 1918. It also was endorsed by the plaintiff to the bank. When it was dishonoured, the bank sold the shares at auction, and the plaintiff bought them, paying the bank, on the 28th October, 1918, \$5,160.

What McTavish got at the Sheriff's sale was merely the interest which Hunter had in the shares on the date of the seizure; *Re Montgomery and Wrights Limited* (1917), 38 O.L.R. 335. If the shares which the note purported to pledge were not pledged at any earlier date, they were certainly identified and pledged on the 29th October, when Hunter handed to the plaintiff the certificate. All that the defendant McTavish got at the Sheriff's sale was such right, if any, as Hunter still had to redeem the shares upon paying the amount due in respect of the note.

At the trial the plaintiff submitted to be redeemed; and the judgment should declare the plaintiff the owner of the 15,000 shares, subject to the right of the defendant to redeem the same, upon paying, within one month, the proper amount, which the learned Judge takes to be \$5,160, with interest at 5 per cent. from the 28th October, 1918, until payment, but which either party may have ascertained by a reference at his own risk as to costs, if not satisfied with the amount mentioned.

The plaintiff should have costs against both defendants. The defendant company did not submit its rights to the Court, but in its pleading made common cause with the defendant McTavish, and there was no reason why it should be relieved from liability for costs, particularly as it alleged that the sale of the shares by the bank to the plaintiff was fraudulent.