

sheriff seized (some time after the 2nd February, 1916) and sold to the applicant, a share of stock standing in the name of Wright; the applicant paid \$80 therefor, and that sum had been paid over to creditors of Wright.

After the sale, Roland C. Nelles made a claim to the ownership of the share or to some lien thereon, alleging that he had had the stock-certificate in his possession since the 15th January, 1916, as security for money lent to Wright.

It was argued for the applicant that the execution bound the share from the time the writ was placed in the sheriff's hands, and that, assuming the statement of Nelles to be true, he had no title as against the purchaser.

At common law an execution bound goods from the date of its issue; the Statute of Frauds made it bind only from the time it was placed in the sheriff's hands for execution; and this was again modified by protecting the rights of a bona fide purchaser without notice of the writ being in the sheriff's hands: Execution Act, R.S.O. 1914 ch. 80, sec. 10. This applied only to goods which were by common law exigible under the writ; and when, by statute, other property was made exigible, it was, generally speaking, made liable only from the time of actual or constructive seizure: *Hatch v. Rowland* (1870), 5 P.R. 223; *McDowell v. McDowell* (1862), 1 Ch. Chrs. 140; *Allan v. Place* (1908), 15 O.L.R. 476.

A transfer of stock must be duly recorded to complete the title, but any unrecorded dealing is not void, but is valid as "exhibiting the rights of the parties thereto towards each other:" Companies Act, R.S.O. 1914 ch. 178, sec. 60.

An execution creditor can take only the true interest of the execution debtor, and this principle applies to cut down the apparent to the true title in the case of stock—the true title is exigible: *Morton v. Cowan* (1894), 25 O.R. 529.

The applicant must take an issue with Nelles as to the bona fides of Nelles's claim, or the application must be refused. If an issue is taken, costs will be reserved to the trial. If not, no costs.