

CREDITORS' DEED—Continued.

his judgment. *Held*, that if they had, their rights should be protected; and an inquiry was directed to that end. *Whitman v. The Union Bank of Halifax*, 16 Can. S. C. R. 410, commented on. *DOUGLAS F. SANSON*122

2. — *Deed Unregistered — Registered Judgment—Execution—Priority—Resulting Trust contained in Creditors' Deed—Validity—Memorials and Executions Act, c. 47, ss. 9, 16, C. S. N. B.—Registry Act, c. 74, s. 4, C. S. N. B.* A memorial of judgment when filed with the sheriff, only affects such interest in land as the debtor then has, and therefore does not postpone the title of a trustee thereto under a creditors' deed previously executed by a number of the creditors, though not registered. A resulting trust in favour of the debtor, after all his creditors have been paid in full, contained in a creditors' deed does not render it fraudulent and void. Property, including a lot of land, was conveyed by A. to B. by deed in trust for the former's creditors. The deed was executed by some of the creditors and was then registered. It was subsequently discovered that the certificate of acknowledgment was defective, and a new certificate was endorsed on the deed. Between the date of registration and the indorsement of the second certificate a creditor obtained and registered a judgment against the debtor, and seized the land under a writ of *fi. fa.* A sale of the land being advertised by the sheriff, the trustee filed a bill praying for a declaration of his title, and, as consequential relief, for an injunction. *Held*, that the trustee's title to the land was not displaced by either the registered judgment or the writ of execution, and that he was entitled to the declaration prayed for. *Seemle*, that before a sale of the land by either party took place the right to sell should not be in doubt so as to prejudice the sale. *TRUMAN F. WOODWORTH*83

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DEED—Estate—Provision Inconsistent with Estate Granted by Premises and Habendum—Construction. Land was conveyed by A. and wife by deed for the expressed consideration of £25 to their daughter and her husband and "their heirs forever, and to them only." "To have and to hold to them and their heirs only, to their sole use and benefit and behoof forever. And be it remembered that the said (grantees) shall not sell, grant nor bargain the said lot of land nor any part or portion thereof, but that it shall be kept to the true intent and meaning of within." *Held*, that the grantees took an estate in fee simple. *AHEARN v. AHEARN, et al.*53

2. — *Estate—Purchaser for Value—Priorities—Interest of Vendor—Quit Claim Deed.* Where the owner of the fee simple grants, bargains, sells, assigns, and conveys, all his interest in land, to have and to hold the same unto the purchaser, his heirs and assigns, the conveyance is not a deed of quit claim, but transfers to the purchaser all the interest of the grantor sufficient to sustain a claim of purchase for value. *KING v. KEITH*538

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