

Oxford, etc., has been an average foal-getter while in my possession, but what he will do I cannot say, under other management," and signed by himself. Counsel for the defendant contended that this was a warranty, and that the plaintiff's rights were limited to whatever he could claim under it, that there was no warranty as to soundness, and that evidence could not be received of any warranty or misrepresentation outside of the written warranty delivered. The learned judge found on the evidence in favour of the plaintiff, and

*Held*, that all the circumstances connected with the sale could be inquired into, and that the evidence fully justified the conclusion that the defendant had been guilty of fraudulent concealment of the disease from which the horse was then suffering, and from which he died a few months afterwards; also that the plaintiff was entitled to have his contract rescinded, and to a decree as asked for in the prayer of the bill.

*Derby v. Peek*, 11 App. Cass. 359, and *Redgrave v. Hurd*, 20 Ch.D. 1, followed.

Decree for the plaintiff, with costs.

*C. P. Wilson and Baker* for the plaintiff.

*Howell, Q.C.*, and *Machray* for the defendant.

DUBUC, J.]

[July 5.

NANTON v. VILLENEUVE.

*Tax sale—Effect of tax deed—Description of land—Proceeding under repealed statute—Effect of validating clauses of Assessment Act—R.S.M., c. 101, ss. 190 and 191.*

Trial of issue under The Real Property Act.

The plaintiff claimed the inner and outer two miles of lot No. 59 under a tax sale deed from the rural municipality of St. Francois Xavier, dated October 18th, 1893.

The defendants were the owners of the land at the time of the tax sale.

No evidence was given to show that the tax sale deed had been made and executed in duplicate, as required by section 187 of the Assessment Act, R.S.M., c. 101.

*Held*, that this was no objection to the validity of the sale.

*O'Brien v. Cogswell*, 17 S.C.R. 420, distinguished as to this point.

The next objection taken by the defendant was that the old seal of the municipality had been used, whilst the name of the municipality had been changed. The present municipality had, however, adopted the old seal.

*Held*, following *McCrae v. Corbett*, 6 M.R. 426, that this objection was not fatal.

The warrant given by the reeve of the municipality authorizing the treasurer to hold the tax sale was dated August 18th, 1891, and professed to be given under the Municipal Act of 1886. This Act, however, was repealed by the Municipal Act of 1890, which came in force June 1st of that year.

*Held*, that the warrant was for this reason invalid, and conferred no authority on the treasurer to sell the lands in question.