

*Held*, affirming the judgment of the Court of Appeal (22 Ont. L.R. 151) that in the absence of fraud or mutual mistake the agreement was a bar to such action.

*Watson*, K.C., for appellant. *Bicknell*, K.C., and *S. G. McKay*, for respondent.

Ont.]

[May 15.

LIDLAW v. VAUGHAN-RHYS.

*Timber license—Crown lands in British Columbia—Real estate—Personalty—Contract—Sale—Exchange—Consideration—Payment in joint stock shares—Vendor's lien—Evidence—Onus of proof—Pleading and practice.*

A sale of rights under licenses to cut timber on provincial Crown lands in British Columbia is a contract for the sale of interests in real estate, and the timber berths are subject to a vendor's lien for the unpaid purchase-money.

The doctrine of a vendor's lien for unpaid purchase-money is applicable to every sale of personal property over which a court of equity assumes jurisdiction. *In re Stuckley* (1906) 1 Ch. 67, followed.

In order to protect himself against the enforcement of a vendor's lien, a defendant relying on the equitable defence of purchase for value without notice is bound to allege in his pleadings and to prove that he became purchaser of the property in question for valuable consideration and without notice of the lien. *In re Nesbitt and Potts' Contract* (1905) 1 Ch. 391, (1906) 1 Ch. 386, followed. *Whitchorn Brothers v. Davison* (1911) 1 K.B. 463, distinguished.

Appeal dismissed with costs.

*Nesbitt*, K.C., and *Coutlec*, K.C., for appellant. *Travers Lewis*, K.C., for respondent.

(Leave to appeal to the Privy Council was refused on the 29th of July, 1911.)

Alta.]

[May 15.

ALBERTA RY. & IRRIGATION CO. v. THE KING.

*Irrigation—Obstruction of highways—Bridges—Construction of statutes.*

The North-West Irrigation Act, 1898 (61 Vict. c. 35), provided by s. 11(*b*), that companies incorporated for the construction and operation of works contemplated by that statute should