through the form of making an allotment of the shares to him, and the present action was commenced on the 9th January, 1901.

While I think the resolutions of 14th December and 13th March were a sufficient issue and allotment within the contract, if that were otherwise, the formal allotment in November was in time. I do not see how the appellant could get rid of the obligation of his deed by any mere notice of repudiation and withdrawal. . . . [Nasmith v. Manning, 5 A. R. 126, 5 S. C. R. 440, distinguished.]

Appeal allowed with costs.

SEPTEMBER 19TH, 1902.

C. A.

SMITH v. HUNT.

Mortgage — Pretended Sale under Power — Fraud — Purchasers for Value without Notice—Knowledge of Agent—Interest to Conceal—Redemption—Compensation.

An appeal by plaintiffs from judgment of MEREDITH, C.J. (2 O. L. R. 134) in so far as it was against the plaintiffs in an action to set aside certain assignments and conveyances and for redemption of mortgaged premises.

J. L. Murphy, Windsor, for appellants.

W. R. Riddell, K.C., and J. H. Rodd, Windsor, for defendants.

The judgment of the Court (OSLER, MACLENNAN, MOSS, GARROW, JJ.A.) was delivered by

OSLER, J.A. :—The appellants contend that the value of the land was much greater than the sum at which it was fixed by the trial Judge, and that the defendants Hunt and Dresskell, as well as the defendant Roberts, should have been condemned to pay the loss the appellants have sustained by reason of the improvident sale.

I see no ground on which the defendant Dresskell can be said to have incurred any personal liability to the plaintiffs. He committed no wrong in taking an assignment of the plaintiffs' mortgage, and the sale made by him to Hunt, in the exercise of the power of sale, wrought no change in the plaintiffs' rights. Hunt became trustee for Roberts, and the property when in his hands was redeemable as before, unaffected by Dresskell's sale, and so remained until, at the request of Roberts, he conveyed to the club syndicate. It was that sale and that act which prejudiced the plaintiffs, and for that