

BLANCHARD v. SCANLAN.

Tax sale.—Bill to set aside.—Costs.

Where a purchaser at a tax sale is not a party to any irregularity or impropriety, he will not be ordered to pay the costs of a *pro confesso* suit to set it aside, unless he has been afforded an opportunity of investigating the matter, and electing to abandon any claim without suit.

E. H. Morphy for plaintiff.

[11th June, 1885.]

KILLAM, J.—The plaintiff files his bill, asking to have an alleged sale of lands for taxes declared illegal and void and a conveyance of the lands made by the Municipality of Westbourne to the defendant declared void, and the registration thereof declared a cloud on the plaintiff's title to the lands.

The bill contains a number of allegations of omissions and informalities sufficient to show the sale to be void, and alleges that the conveyance was made by the municipality and registered by the defendant; and the bill is taken *pro confesso*.

The plaintiff asks that the defendant be ordered to pay the costs of suit, but does not allege in the bill any application to the defendant to release the apparent claim shown by the registered conveyance.

I do not think that the defendant should be ordered to pay costs.

In *Black v. Harrington*, 12 Gr. 175, a tax deed was set aside without costs, as the defendants had nothing to do with the erroneous proceedings by reason of which the sale was held void.

In *Ford v. Proudfoot*, 9 Gr. 478, a tax deed was set aside without costs, on the ground that "the purchaser had a right to presume that the official acts of the treasurer and sheriff were rightly done."

In *Henry v. Burness*, 8 Gr. 345, a tax sale was declared void on account of there having been shown to have been a combination among bidders to keep down prices, but without costs, on the ground of the defendant not having been a party to the combination. In *Logie v. Young*, and *Logie v. Austin*, 10 Gr. 217, similar cases to *Henry v. Burness*, the same disposition as to costs was made, for the same reason as in that case. All of these were cases in which the defendants answered and sought