plaintiff having repossessed and treated the machine as his own, he could not recover the price. The contract contained a provision that, upon default in payment of the note, the plaintiff should be at liberty to take possession of and sell the machine and apply the proceeds upon the note, after deducting costs of repossessing and selling. The learned Judge said that the plaintiff could not recover that which was in truth the price of the chattel sold, because his conduct had been inconsistent with his obligations as vendor. He was at liberty, under the contract, on resuming possession, to sell the property and apply the proceeds upon the note. He had not sold the machine, but had used it as part of his own plant; and he could not now call upon the purchaser to accept a machine which he had applied to his own purposes. It was no answer to say that the machine had not been much depreciated by the user of it, and that compensation could be made. It was sufficient that the use made of the machine was not contemplated by the contract, and was inconsistent with the obligation to hold it ready for delivery. Action dismissed with costs. W. M. McClemont, for the plaintiff. S. H. Bradford, K.C., for the defendant.

CAMPBELL v. DOUGLAS—LENNOX, J.—JUNE 12.

Vendor and Purchaser—Exchange of Lands—Retention of Money to Pay off Mortgages—Right of Covenantor to be Indemnified against Obligations.]—Action to recover $4,911.74 and interest as damages for the breach by the defendant of a covenant or obligation to pay off and discharge the plaintiff's liability under certain mortgages, as part of the consideration upon an exchange of lands between the plaintiff and defendant. The action was tried without a jury at Ottawa. The learned Judge finds that the defendant was not a mere nominee, and that the plaintiff was not unconditionally bound to convey to him, and the plaintiff did so, as he stated, only because the defendant was a man of substance and undertook by the conveyance to apply the consideration money retained in discharge of the plaintiff's obligation under the mortgages. It was an exchange of lands—practically an exchange of obligations—and the defendant reaped the full benefit of the obligations undertaken by the plaintiff. Walker v. Dickson (1912), 20 A.R. 96, distinguished. Small v. Thompson (1897), 28 S.C.R. 219, followed. Judgment for the plaintiff for $4,911.74, with interest and costs. J. R. Osborne, for the plaintiff. W. D. Hogg, K.C., for the defendant.