

stated in a lump sum. In an action for fraud and deceit brought by the purchaser the trial judge, in discussing the total consideration for the properties purchased, found that there was evidence to shew the values placed by the parties upon each of two of these properties as to which false and fraudulent representations had been made, and which had turned out worthless or nearly so.

*Held*, reversing the judgment appealed from, the Chief Justice and Idington, J., dissenting, that the finding of the trial judge as to the consideration ought not to be disturbed upon appeal and that the proper measure of damages, in such a case, was the actual loss sustained by the purchaser by acting upon the misrepresentations of the vendor in respect of the two mining locations in question without regard to the results or values yielded by the other locations purchased at the same time and as to which no false representations had been made. *Peek v. Derry*, 37 Ch. D. 541, followed. Appeal allowed with costs.

*Chrysler, K.C.*, for appellants. *Aylesworth, K.C.*, and *Ridley*, for respondents.

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Yukon.] LE SYNDICAT LYONNAIS *v.* McGRADE. [May 2.

*Constitutional law—Imperial Acts in force in Yukon Territory—Fraud—Lis pendens—Land Titles Act, 1894—57 & 58 Vict. c. 20, s. 126 (D.)—61 Vict. c. 32, s. 14 (D.)—Pleading—Rules of Court—Yukon ordinances, 1902, c. 17—Rules 113, 115, 117—Estoppel.*

The provisions of the Imperial Act, 2 & 3 Vict. c. 11, in respect to the registration of notices of *lis pendens* and for the protection of bona fide purchasers pendente lite, are of a purely local character and do not extend in their application to the Yukon Territory by the introduction of the English law generally as it existed July 15, 1870, under The North-West Territories Act, R.S.C. c. 50, s. 11.

Under the provisions of The Land Titles Act, 1894, s. 126, a bona fide purchaser from the registered owner of land subject to the operation of that statute is not bound nor affected by notice of *lis pendens* which has been improperly filed and noted upon the folio of the register containing the certificate of title as an incumbrance or charge upon the land. The exception as to fraud referred to in the 126th section of the Act means actual fraudulent transactions in which the purchaser has participated and does not include constructive or equitable frauds. *The Assets Co. v. Mere Roihi*, 21 Times L.R. 311, referred to and approved.