judgment. His Honor referred to the *projet* of the Code, and to the modification of the law which had taken place. There was an omission in the Code, but the intention was to be inferred from the several articles relating to the subject. Art. 2030 had a direct bearing on it, because it showed that a sale had no preference over a mortgage. The rule which the majority of the Court adopted was that a mortgage or sale has no effect as regards third parties until it is registered. The debtor, Poyet, might have sold the property to a third party, and if the latter had registered first he could take possession from Flanders. There is no difference between the judicial and conventional hypothec in this respect. For instance, if Poyet, after selling the property to Flanders, had given a *hypothèque* on it to Adam, and Adam had registered it before the registration of the sale, it would affect the property the same as the registration of the judgment. His Honor concluded by saying that the *considérants* (given below) showed the grounds on which the judgment rested.

RAMSAY, J. The appellant obtained judgment against one Poyet for $35 and costs, on the 13th December, 1877. On the 17th December, 1877, the said judgment was registered against the property mentioned in the declaration "as appearing to be the property and in the possession of the said Poyet," as it is contended within the terms of Art. 2121 C.C.: "The judgments and judicial acts of the civil courts confer hypothecs when they are registered, from the date only of the registration of a notice specifying and describing *the immoveables of the debtor* upon which the creditor intends to exercise his hypothec." On the night which followed the rendering of the judgment, that is, the night of the 13th to the 14th of December, 1877, Poyet left his home with all his moveables, and has not since been heard of. Subsequently the appellant found the respondent in possession of the premises, and as she would not pay his claim he sued her hypothecarily as *tiers détenteur*. To this action respondent pleaded that she had purchased the land in good faith and paid for it on the 20th November, 1877, and that she had registered her title on the 20th December of the same year; and that consequently when the judgment against Poyet was rendered on the 13th December he was not owner of the land in question. In support of her pretention she produced a deed *sous seing privé* which was supported by parol testimony. It is now contended that this parol testimony was not admissible, and that, therefore, the judgment of the Court below should be reversed. I don't think we can look at any question of evidence on this appeal. From the way in which it has come up, we can only look at the law. We could not safely say that evidence which we do not see is irregularly taken. But in any case it seems the *sous seing privé* deed for the sale of lands in the Townships makes proof if supported by parol testimony, and if so, it must be sufficient to fix its date by oral evidence.

The case is argued in appellant's factum as a question of fraud. There appears to be no suggestion of fraud so far as I can see, but one simply of law, that is to say, whether the unregistered title of the purchaser is to be defeated by the registration of a judicial hypothec subsequent to the sale.

I may at once say that I do not think the first portion of Art. 2100 C. C. affects the case. The thirty days given for registration is in favor of the vendor. It may perhaps be asked why it, or some other delay, was not also given in favor of the purchaser; but the answer is the law has so willed it, and has made rules applicable to registration where a delay is specially allowed and where it is not. It was primarily the duty of the purchaser to register. That would have given effect to her title and ensured its priority (C. C. 2082). But if no penalty is attached to her failure to register, then her title, being perfect, must prevail (C. C. 1025). In default of such registration her title of conveyance could not be invoked against any subsequent purchaser who had registered his title (C. C. 2098), provided the two purchasers had a common *auteur* (C.C. 2089). There is no article which declares, in so many words, that the hypothec acquired and registered subsequent to the sale shall take precedence of the unregistered conveyance; but in Art. 2130 we find that "if a deed of purchase and a deed creating a hypothec, both affecting the same immoveable, be entered at the same time, the more ancient deed takes precedence." This seems to imply that if they were entered at different times the first registered would take