

HODGINS, J.A., read a judgment in which he said that the company of which the appellant was liquidator was on the 21st March, 1914, ordered to be wound up; and since 1911 the machinery now claimed was in a separate building, in which the insolvent company carried on business until a seizure was made by the sheriff under a writ of fieri facias at the instance of the respondent J. J. McGee. On the 23rd July, 1913, Witcher and W. R. McGee conveyed this machinery by a bill of sale to the insolvent company. In February, 1913, the insolvent company was incorporated, and it bought out the assets of a partnership called the Wood Working Company, owned apparently by Witcher and W. R. McGee. They had in fact been previously acquired by J. J. McGee under an agreement dated the 4th October, 1912. The Wood Working Company partnership, then consisting of one Witcher and one Edey, since deceased, was formed by the respondent company in June, 1911, to take over the wood working business and machinery, as its continued ownership by the respondent company would have violated the agreement with the Corporation of the Village of Westport, under which the village corporation had granted the company a bonus.

The formation of the insolvent company was admitted by the respondent J. J. McGee to be partly due to fear of the village corporation entering suit for violation of the agreement. He now alleged, as his reason for disputing on behalf of the respondent company and of himself the original title of Witcher and Edey to the machinery, that he could find no minutes of the respondent company authorising the sale to those men in 1911.

Certain facts, set out by the learned Judge, were given in evidence to support the title of the insolvent company; and it was pertinent to remark that the evidence of the respondent J. J. McGee that the mortgage of the 1st December, 1913, was intended to cover the assets of both companies, was contradicted by the fact, deposed to by him, that he was not aware till the 21st April, 1914, that the insolvent company did not own, as he believed, the machinery in question.

The facts led to the conclusion that there was an actual transfer of the assets now in question to Witcher and Edey in 1911, either for the purpose of misleading the village corporation in regard to the ownership of the wood working business, or with the *bonâ fide* intention of transferring them out and out. In the former case, the Court should not assist either of