

From ROSE, J.]

[Jan. 12.]

PETMAN v. CITY OF TORONTO.

Municipal corporation—Local improvements—Increase of cost.

The extension of a street was petitioned for as a local improvement by the requisite number of owners and the petition was acceded to by the Council, the cost being estimated at \$14,000 and an assessment for that sum being adopted by the Court of Revision after notice to the persons interested. After some delay the Council purchased the land required at a price much greater than the estimate and passed a by-law levying over \$36,000 for the work. No work was done on the ground, and no notice of the second assessment was given.

Held, that an opportunity of contesting the second assessment should have been given, and that the by-law was invalid.

Judgment of ROSE, J., affirmed.

Fullerton, Q.C., and Caswell, for the appellants.

W. Macdonald, for the respondent.

From ROSE, J.]

[Jan. 12.]

SMITH v. PEARSON.

Covenant—Indemnity—Release—Sale of land.

A covenant by a purchaser with his vendor that he will pay the mortgage moneys and interest secured by a mortgage upon the land purchased, and will indemnify and save harmless the vendor from all loss, costs, charges and damages sustained by him by reason of any default, is a covenant of indemnity merely, and if before default the purchaser obtains a release from the only person who could in any way damnify the vendor, he has satisfied his liability.

Judgment of ROSE, J., affirmed.

E. Taylour English and A. McNab, for the appellant.

Snow and G. H. Smith, for the respondent.

From DIVISIONAL COURT.]

[Jan. 12.]

YOUNG v. WARD.

Husband and wife—Employment or occupation in which husband has no proprietary interest—Letting lodgings—R.S.O. c. 132, s. 5—Fraudulent conveyance—Attack under claim of third person acquired by person himself estopped.

Where a married woman living in a house furnished by her husband and supporting herself during his temporary absence in search of employment, lets lodgings and supplies necessities to the lodger, she cannot recover from the lodger the money due as earned by her in an employment or occupation in which the husband has no proprietary interest.

Where a creditor takes the benefit of a conveyance alleged to be fraudulent, and on that ground fails in his action attacking it, the acquiring by him of a small claim and the bringing of another action upon it, is an abuse of the process of the Court.

Judgment of the Divisional Court, 27 O.R. 433, reversed.

J. E. Jones, for the appellant.

Cassels, Q.C., and Swayzie, for the respondent.