

as where A. seised in fee made a feoffment to the use of such person and of such estate as he should limit and appoint by his last will, and died, making a will . . . the devise was upheld as a valid execution of the power." See also *Maundrell v. Maundrell* (1804), 10 Ves. 246, 254, 255.

It should be declared that the wife was not entitled to dower, and that the objection was not well taken.

MASTEN, J.

OCTOBER 2ND, 1918.

*WEYBURN TOWNSITE CO. LIMITED v. HONSBURGER.

Company—Saskatchewan Company Doing Business in Ontario—Incorporation by Memorandum of Association under Saskatchewan Companies Act—Extra Provincial Corporations Act, R.S.O. 1914 ch. 179, sec. 16(2)—Sale of Saskatchewan Lands—Contract Made in Ontario in 1912—License Obtained by Company in 1918—Comity—Effect of License—Company not Incorporated by Sovereign Authority—Powers of Company Created by Memorandum of Association—Amendment to Saskatchewan Companies Act by 7 Geo. V. ch. 34, sec. 13a.—Acts Done before Amendment—Ultra Vires as against Citizen of Ontario—Action to Enforce Contract—Defence of Misrepresentation—Failure on Evidence.

Action for the specific performance of an agreement for the sale by the plaintiff company to the defendant of 8 lots in the township of Weyburn, in the Province of Saskatchewan.

The first defence was that the plaintiff, a corporation incorporated under the laws of Saskatchewan, had no power to carry on business in the Province of Ontario, and that the agreement was ultra vires and void.

The second defence was that the defendant was induced by misrepresentations to enter into the agreement.

The defendant counterclaimed for the delivery up of a promissory note made by him to the plaintiff company and for the return of \$115.75 paid on account of the purchase-money.

The action and counterclaim were tried without a jury at a Toronto sittings.

W. N. Tilley, K.C., and J. W. Payne, for the plaintiff company.

A. C. Kingstone, for the defendant.

* This case and all others so marked to be reported in the Ontario Law Reports.