

cause, as he said, he had agreed to assign them; that the certificates were thereupon given up by the department to Mr. Ledyard in order to enable the latter to complete the arrangement; that for value and by way of completion he handed the certificates to Mr. Leys, who handed them to Mr. W. H. Beatty, the owner of the land, who paid Mr. Leys therefor and deposited them with the title deeds under the supposition and belief that, having purchased and obtained possession of the certificates, he had thereby put an end to all claim of the tax purchaser to a deed of conveyance from the Provincial Treasurer, and that his title as owner was thus cleared of the tax sale; that Mr. Bull intended to part with his title to and to cease to be the owner of the certificates and to extinguish his claim under them; that, acting on the arrangement so made, he withdrew his claim to deeds for the parcels, and made no other claim until over 15 years afterwards, and then only made it when in investigating titles to other properties, it was seen that he appeared to be the purchaser of these parcels at the tax sales, and he had forgotten the facts; that his claim was then put forward in entire forgetfulness of the facts, and was afforded some shew of support by the failure after search to find anything in the records of the department contrary to his claim, and the assurances of the officers of the department to the same effect; and that, if the letter of 26th January, 1889, and Mr. Ledyard's receipt for the certificates had been found and produced in the beginning, Mr. Bull would not have applied for and the department would not have issued a deed of conveyance to him.

If these findings be correct, Mr. W. H. Beatty could have restrained the defendant Bull from seeking to obtain a deed of conveyance from the Treasurer. In forgetfulness of the facts, Mr. Bull made statutory declarations which he otherwise would not have made, and the department, with the papers in its archives, but forgotten and overlooked by the officials in their searches, issued the deed of conveyance now in question.

But the statements in the statutory declarations, or the action of the department, could not and did not alter the true facts or the real position of the parties at the date of the issue of the deed. Mr. Bull was not then the owner or holder of the certificates, and could not require the treasurer to issue a deed of conveyance under the provisions of