

SUTHERLAND, J.

APRIL 27TH, 1916.

## PRUDENTIAL SECURITIES LIMITED v. SWEITZER.

*Vendor and Purchaser—Agreement for Sale of Land in Alberta—Vendors' Guaranty of Rise in Value—Construction—Fulfillment—Default in Payment of Instalments of Purchase-Money—Recovery of Default Judgment in Alberta Court—Jurisdiction—Action Subsequently Brought in Ontario—Merger.*

Motion by the plaintiffs for judgment upon admissions made by the parties in an action to recover the amount of a money-judgment, recovered by the plaintiffs against the defendant in the Supreme Court of the Province of Alberta.

The motion was heard in the Weekly Court at London.

L. H. Dickson, for the plaintiffs.

J. B. McKillop, for the defendant.

SUTHERLAND, J., set out the facts in a written opinion. On the 31st January, 1913, the plaintiffs, in writing, agreed to sell land in Alberta to the defendant for \$1,200, payable \$400 on the date of the agreement (that was paid) and \$400 on the 31st July in each of the years 1913 and 1914. The agreement contained this clause: "The vendors hereby agree that the purchaser will realise an increase on the above-described lot, at the rate of 25 per cent. on the money invested in it, within the term of one year from this date." On the 13th March, 1915, the plaintiffs, alleging that the defendant had made default in the subsequent payments, obtained a default judgment against him in the Alberta Court for \$1,008.15, which included principal, interest and costs.

This action was brought in the Supreme Court of Ontario to recover the amount of the Alberta judgment and interest, or, in the alternative, to recover the sum of \$1,020.50, balance of purchase-money and interest under the agreement.

The admissions made by both parties included the fact of the recovery of the Alberta judgment; that the defendant was not at the time of the recovery nor at any time resident or domiciled in Alberta, and did not submit to the jurisdiction of the Court there; that the plaintiffs were the owners of the land and in a position to convey with a good title; that the defendant had personally inspected the land before purchasing; that between the 31st January and the 31st July, 1913, the land had advanced in value to