

3. The conviction said nothing as to when the offence had been committed and, for all that it stated, it might have been before the by-law came into operation, or more than six months before.

Butcher, for defendant. *Brooks*, for Village of Carman.

Province of British Columbia.

SUPREME COURT.

Full Court.] PECK v. SUN LIFE ASSURANCE CO. [April 15.

Lis pendens—Contract for sale of land—Registration of—Interest of vendor pending payment—Subsequent registration of lis pendens—Payment by instalments—Notice—Land Registry Act, ss. 23, 24, 37, 85-88.

Appeal from judgment of IRVING, J., ordering the cancellation of a *lis pendens*. In 1894 a husband conveyed certain lands to his wife and from her by agreement in October, 1896 (registered in March, 1897), plaintiff contracted to purchase one parcel of the land: the agreement provided that the purchase money should be paid by instalments which were paid until November, 1898, when the wife conveyed to the plaintiff and took his note in payment of the balance. In August, 1897, defendant company commenced an action against the wife to set aside the conveyance to her from her husband as a fraud on his creditors and registered a *lis pendens* on 24th September, 1897, and by the final judgment in that action the wife was directed to do all acts necessary to make the lands comprised in the impeached conveyance available to satisfy the claims on her husband's estate. Plaintiff on applying to register his title first learned of the action and the *lis pendens*. Plaintiff sued to have the registration of the *lis pendens* cancelled:—

Held, 1. That the estate acquired by the conveyance to plaintiff from the wife remained subject to the rights of the company as they should be determined by the result of its action against the wife.

2. The plaintiff in order to get a title should not be compelled to pay again that portion of the purchase money which he has paid since the registration of the *lis pendens*.

3. Notice of the company's adverse claim was not imputed to plaintiff by reason of the registration of the *lis pendens*.