

Province of British Columbia.

SUPREME COURT.

Full Court.]

[Jan. 21.]

CANADIAN BANK OF COMMERCE v. LEWIS.

Fixtures—Chattels—Bank safe built into rented property—Landlord and tenant—Agreement between as to removal of fixtures—Effect of agreement on subsequent purchaser of premises.

Plaintiff bank rented a building into which it moved a safe for the purposes of its banking business. The landlords at the request of the bank built around the safe a brick vault. After occupying the building about a year, the bank moved into premises of its own, and the building and safe were used by succeeding tenants until the sale of the property to defendants, who knew nothing of an alleged agreement between the bank and its landlords as to the right to remove the safe after the bank had left the premises. During the interim between the removal of the bank and the sale, certain improvements were effected in the building, one of which was the pulling down of the vault and the construction of a mezzanine floor which was partly supported by the safe.

Held, on appeal, reserving the judgment of HENDERSON, Co. J. (who decided that the safe was a chattel and had been bricked or built in merely for the purpose of its more convenient use as a chattel), that although the safe when enclosed in the vault, became a fixture, and although it could have been removed with the consent of the original owners of the building, yet that right was lost when the defendants bought the premises.

J. A. Russell, for defendants, appellants. *Davis, K.C.*, for plaintiffs, respondents.

Full Court.]

[Jan. 21.]

DE BECK v. CANADA PERMANENT.

Mortgagor and mortgagee—Power of sale in mortgage—Orders nisi and absolute—Accounts—Rents, receipt of—Tender—Interest.

A mortgagee having obtained a foreclosure order nisi, shortly afterwards, and before the period allowed for making absolute