

action was brought upon that assignment of that covenant, and upon that only.

There was, however, no covenant, and so there was no foundation for this claim—whatever right there might be, if any, between any of the parties, by reason of the defendants having acquired the land on the terms and in the manner mentioned: see *Witham v. Vane* (1881), 44 L.T.R. 718; *Challis on Real Property*, p. 341; *Boulton v. Gzowski* (1896), 28 O.R. 285; *Am. & Eng. Encyc. of Law*, 2nd ed., vol. 8, p. 65.

The point was not a purely technical one: the plaintiff could have no right against the defendants, personally, except under an assignment from Sonshine, and there was nothing to shew that the plaintiff had any right to compel Sonshine to assign any right against the defendants to him; and in regard to any implied obligation on the part of the defendants to pay off the mortgage, or otherwise protect Sonshine against it, it might be that there were mutual obligations which should prevent Sonshine enforcing this obligation without fulfilling his like obligation to pay off the mortgage upon the lands conveyed to him by the defendants.

Appeal dismissed with costs.

SECOND DIVISIONAL COURT.

JUNE 8TH, 1917.

*C. v. C.

Husband and Wife—Alimony—Validity of Marriage—Previous Foreign Divorce of Wife—Validity in Ontario—Domicile—Jurisdiction of Foreign Court—Status of Husband to Attack Divorce.

Appeal by the defendant from the judgment of MIDDLETON, J., 11 O.W.N. 342, 38 O.L.R. 481.

The appeal was heard by MEREDITH, C.J.C.P., RIDDELL, LENNOX, and ROSE, JJ.

H. H. Dewart, K.C., and R. T. Harding, for the appellant.

J. W. Bain, K.C., and Peter White, K.C., for the plaintiff, respondent.

THE COURT dismissed the appeal with costs; MEREDITH, C.J.C.P., dissenting.

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