

not so specially applicable to this particular case, would nevertheless have probably been considered sufficient to admit of the application of the remedy which the respondent seeks. Now it has been made to appear by affidavits, to the satisfaction of the Court here, that it was through mere error or mistake, and without any intention to violate the law on the part of the holder, the now respondent, that the effacing of the stamps on the bill now sued on was omitted. We, therefore, believe that the above provision is sufficient to authorise us, even as a Court of Appeal where the objection has been first taken, and where the proceedings are now had, to give effect to the respondents' petition to be allowed to pay double duty and efface the stamps, but subject to costs to the appellant on this application.

The judgment of this Court will therefore be, that on the defects in question being remedied by the respondents, the judgment in the Court below in their favor will be confirmed.

Vilbon & Lafleur for appellant.

Geoffrion, Rinfret & Dorion for respondent.

SUPERIOR COURT.

MONTREAL, April 14, 1880.

NORMANDEAU et al. v. BOUGIE.

Saisie-Revendication—Possession of defendant.

The action was to revendicate a carriage alleged to be the property of the plaintiffs. The defendant denied that she ever had possession, and said that her deceased husband François Maranda had bought or leased the carriage from the plaintiffs, who had taken out a revendication against him and had obtained judgment; that the carriage was portion of his succession and in the legal possession of his heirs; that she was not in possession, and plaintiffs had only to have the judgment made common to the heirs.

TORRANCE, J. I find that the defendant was in physical possession of the carriage, and that is sufficient. If there were other persons behind, for whom or through whom she held, it was right in her to plead the facts and show who these persons were;—Pothier, *Domaine*, No. 298. She has not done so. I would uphold the seizure, and the question only remains as to costs. Judgment will go without costs.

M. Desjardins for plaintiffs.

Rainville for defendant.

ROBERT et al. v. NORTHGRAVES et vir, and BLANCHET, *adjudicataire*, and NORTHGRAVES et vir, petitioners.

Sheriff's Sale—Nullities which may be invoked under C.C.P. 714.

This was a petition to annul the sheriff's sale. The petitioner was the female defendant, and alleged that she had been condemned to give up another lot by the judgment in this cause within 15 days after service of the judgment upon her, and in default she was to pay \$150 with interest and costs; that having been served with a copy of the judgment, she did give up the land within 15 days, but, notwithstanding her surrender of the land, a writ of execution issued, under which other land, No. 208, was seized, namely, the land in question, and sold to Louis Blanchet; that the sale of No. 208 was further illegal for the reason that petitioner had never had possession of it, and in June, 1878, a petition to annul the sale had been filed by one John Stride, which was still pending.

The plaintiff answered that defendant had not made an opposition in time, and therefore had acquiesced in the sale, that she had no interest in raising the question of nullity, and as to the other petitioner, the purchaser, his name had been used as a formality without his knowledge or consent, and he was without interest; and as to the litigation pending as to the land, of which plaintiff was ignorant, it cannot be a sufficient reason for annulling the sale; that, at most, the effect of said sale can be suspended, and operate a conditional ablegation on the part of the purchaser, who alone could complain.

TORRANCE, J. Mr. Rinfret, for petitioner Northgraves, invokes the *délaissement* made on 18th January, 1879, within 15 days after service of the judgment, as discharging him from any personal liability, as the defendant was no longer debtor, and the abandonment had never been attacked. The execution had been taken out as against a personal debtor. On the other hand Mr. Lareau, for plaintiffs, invokes C. C. P. 714, as our guide: "If the essential conditions and formalities prescribed for the sale have not been observed," the sale may be vacated at the instance of the judgment debtor. The formalities of the sale are not complained of, and no opposition to the sale was made before 15 days