

HIND v. WESBROOK.

Confirmation of sheriff's sale of land under execution—Evidence—Publication of notice—Sufficiency of—Fairness of sale—Inadequate price—Redemption of land.

The production of an abstract of title having an execution noted thereon is *prima facie* evidence that such execution is a valid charge against the land.

Hasitante (after consultation with the other Judges of the Court), publishing a notice in a weekly newspaper from the 18th January to the 15th March, both inclusive, is a publication for "two months."

An apparent inadequacy of selling price is not of itself evidence of unfairness in the conduct of a sale under execution.

In the absence of fraud a Judge has no power to allow any party to redeem after a sale by a sheriff of land under execution.

[WETMORE, J., June 12, 1900.]

Statement.

This was an application by Abraham Bell to confirm the sale to him of certain lands sold by the sheriff under execution issued in the above suit. The facts sufficiently appear in the judgment.

Argument.

J. T. Brown, for the applicant.

D. H. Cole, for Herbert R. Sharp, the registered owner.

Judgment.

WETMORE, J.—The first objection raised to the confirmation is that there is no material before me to show that the lands were ever the lands of the execution debtor. An abstract of title by the registrar of land titles was produced, by which it appears that the certificate of title to these lands was issued to Sharp on the 19th April, 1900, and that it was subject to this very execution under which the sale was made. That, in my opinion, is *prima facie* evidence that Sharp's title was subject to such execution and casts upon him the burthen of establishing that it was not a valid charge. A copy of this execution was lodged with the Registrar of Land Titles on 1st September, 1894, and therefore before "*The Land Titles Act, 1894*," came into operation. It must have been lodged, therefore, under section 94 of "*The Territories Real Property Act*," as enacted by 51 Vic. (1888) cap. 20, sec. 16, and in order to bind the land it ought to have been accompanied with a memorandum in writing of the lands intended to be charged thereby. Section 92 of "*The Land Titles Act*,"