posant has no right of property in the house and land seized; that he never had possession, and that the deed by which he pretends to have acquired from Lafond is simulated, the opposant being merely the *prête-nom* of the defendant for whose interest the opposition is made.

This contestation was met by a demurrer, which was dismissed, but it has been brought up again at the merits, and is, therefore, still before the court *au fond*. It gives two grounds: 1st, that the contestants do not ask to annul and set aside the deed; 2nd, that the conclusions merely asking the dismissal of the opposition, are insufficient. Both these reasons mean the same thing, viz.: that the contestant could not ask for the dismissal of an opposition founded on an apparent title, without at the same time asking that the title should be set aside.

There is nothing, I think, in either or both of these objections. The contestants do not recognize any existing title at all in the opposant. They say he has no title, that it is a sham and has no existence, and they do not, of course, ask to set aside what they say does not exist. Therefore the demurrer was properly dismissed.

The substantial question, however, a question of fact, is whether this title of the opposant is a reality or a pretence to protect Joly. The other point, whether it can be raised under a contestation to an opposition, or requires a direct action against the ostensible registered owner, is not in my opinion of so much consequence as it seemed at the hearing. For whether the title of the opposant be good or bad is the sole question, and if he comes forward with a deed as evidence of his title, he must submit to hear it said by his opponent that his deed is no deed at all. It was argued that this man who lives in another district, where this property is situated, was entitled to be sued in his own jurisdiction, and I see that in the cases of *Tempest & Baby* something of that kind was alluded to by the learned Chief Justice; but I do not think it is a very important consideration, for after all, as far as that consideration goes, it would be merely a question of costs. The title invoked by the opposant is either real or fictitious. The opposant chooses his own mode of asserting his title. I do not discuss at length the law as affecting this particular question. I merely say that as between these parties the question is properly raised. I have had before me, I believe, all the authorities and cases on this point. It is hardly fair to put it in the form of saying you can't question a man's title by seizing his property in the hands of your debtor. *You do not question his property* by seizing the apparent property of your debtor. You only say to your debtor: "That appears "to be your property; I find you in the occu- "pation of it, and I seize it." You do not attack the real owner at all. You only act within the limits of the art. 632, C.P.C., if your debtor is reputed to be in possession of the property seized *animo domini*. Having done that; having acted within the law as far as the fact of his possession can be ascertained, the real owner appears with his opposition. He surely cannot contend that what he alleges is *incontestable*. If he has no real title, but merely a fictitious one, the creditor must be allowed to tell him so, and to show it if he can. I will merely cite one authority: Pothier, Ed. Bugnet, p. 242, No. 526. After stating the general principle contained in our article 632, the author says: "Observez néanmoins, que l'on entend par propriétaire non pas seulement celui qui l'est en réalité, mais encore, celui qui possède l'héritage *animo domini*, soit qu'il en soit véritablement le propriétaire, soit qu'il ne le soit pas." The note at the foot of page 243 adds: "Sur le propriétaire apparent." Vide passim Marcadé, Vol. 10, p. 58, last edition; 24, 31, 32 and 33, A. L. R.; 19 Laurent, No. 603; Dalloz, Rep. Verb. Obligation, No. 3,114; 6 L. C. Rep. 489; 4 Rév. Leg. 461; 3 L. N. 66; Queb. L. R. 301; 2 L. C. Law Journal, p. 37, *Masson* v. *McGoun*.

In *McCorkill* v. *Knight*, the Court of Appeals, and subsequently the Supreme Court, adopted the principle which runs through all our cases on this subject, that the party invoking the nullity of such a seizure must show that his possession and title are founded not on deeds that are false and simulated, and having no real existence: the points being not merely the validity, but the existence of the ownership, and the possession *animo domini*.