

appellant Bank as mandatory only for McDougall and Beard of whom Rough was the *prête-nom*. Their lordships agree with the Court of Queen's Bench which on appeal rejected this view of the facts as inadmissible.

The circumstances under which the appellant Bank purchased and subsequently conveyed to Rough, appear from the letters written in January 1883, there is no trace of any other agreement or arrangement than that which these letters disclose. In their lordships' opinion they are inconsistent with the view that the Bank in purchasing acted as mandatory for Beard and McDougall. The letter of the 6th of January contains an agreement by the Bank, in case they should purchase the property at the sheriff's sale, to sell it to Beard and McDougall. There is no indication of an arrangement that the Bank should act for McDougall and Beard in making the purchase, indeed the terms on which they were to acquire the property, the price they were to pay the Bank, appear quite inconsistent with any such idea. Although the letter probably constituted what is termed a firm offer on the part of the Bank to sell at the price and on the conditions named, that is to say they were bound to sell on those terms if within the time limited Beard and McDougall elected to buy, no obligation was imposed on the latter to do so. Even if the Bank obtained the property at the sheriff's sale, Beard and McDougall might have refused to become the purchasers, and unless they exercised their option within the ten days limited by the letter they could not have insisted upon becoming the purchasers. This is made quite clear by Mr. Farwell's letter of the 8th of January already quoted. He speaks of his having agreed in the previous letter "in the event of your purchasing the property from us should it come into our hands at the sheriff's" and concludes—"In other respects my letter to remain in force and the property held by us for ten days from date of sale subject to your acceptance on the terms and conditions therein stated."

It was argued for the appellant Bank that even assuming that the sale was made with a warranty as regards their own acts, this afforded no answer to their claim to be paid the purchase money and no ground for setting aside the sale, inasmuch as it was not by reason of any act of theirs that the sale was declared void. After the judgment on the petition of the Hochelaga Bank