who gives his obligation or *billet*, as it is commonly called, *sous brevet*. The arrival of the term of payment did not give rise to interest. His obligation was to pay without interest at his house; and I cannot see where he has failed in that obligation. Then it is said the suit is a demand: so it is:—but of what? not to pay the note where it was made payable by the terms of the contract; the bailiff who served the writ never presented the note. The writ was a command to comé and answer here in court, in Montreal; the debtor came, and he brought his money with him, and the creditor contesting after that, on the authority of Poulin & Prevost, has to pay costs. Judgment according to first plea, giving *acte* of confession of judgment, and condemning plaintiff to pay defendant's costs.

Champagne for plaintiff.

Longpré for defendant.

Montreal, July 9, 1878.

PAPINEAU, J.

TURCOTTE v. REGNIER.

Capias—Desistement—Jurisdiction.

Held, where an action for $67 was originated in the Superior Court by Capias ad Respondendum duly executed, but of which a *desistement* was subsequently filed by plaintiff on the return day, that such action could not be then continued before the said Court for want of jurisdiction, and must be dismissed. *Sauf recours* to plaintiff to proceed before the proper Court.

On the 18th May, 1878, plaintiff sued for $67, but took out the action in the Superior Court by *Capias*, alleging that defendant was leaving the Province of Quebec for Manitoba. On the 6th June, the day of Return, the defendant appeared by attorney, who was then served with a *desistement* of the *Capias* only, the plaintiff keeping his recourse by his action for the debt as instituted.

The defendant, by *Exception Déclinatoire*, pleaded that by such *desistement* of the Capias, the same being but the accessory and giving jurisdiction, the Superior Court had no longer jurisdiction.

The judgment of the Court was as follows:

The Court, etc., considering that the *Capias ad Respondendum* accompanying the action could alone give the right to plaintiff to institute his action before this Superior Court for the amount claimed of $67 only, and that it is not established by proof that plaintiff had returned his action in Court before making his *desistement* of the Capias, the Exception Declinatoire is maintained, and the defendant is therefore put *hors de Cour* with costs against plaintiff, the Court reserving to plaintiff the right of taking out his action before the proper Court.

Thibault & Messier for plaintiff.

A. W. Grenier for defendant.

FRAUDULENT PURCHASES OF GOODS.

HOUSE OF LORDS, MARCH 4, 1877.

CUNDY v. LINDSAY, Appl't, 38 L. T. REP. (N. S.) 573.

A purchaser of a chattel, who has not purchased in market overt, takes the chattel subject to any infirmity of title in the vendor, even if he purchase *bona fide* without notice.

A person of the name of A. Blenkarn wrote to the respondents and ordered goods of them, intentionally signing his name in such a manner as to be taken for Blenkiron. There was a respectable firm of that name, and the respondents, believing that they were dealing with that firm, forwarded the goods to Blenkarn. Blenkarn had no means of paying for the goods. The appellants afterward purchased the goods *bona fide* from Blenkarn.

Held (affirming the judgment of the court below), that the property in the goods had never passed from the respondents, and that they were entitled to recover the value of them from the appellants.

Hardman v. *Booth*, 1 H. & C. 803; 7 L.T. Rep. (N.S) 638, followed.

This was an appeal from a judgment of the Court of Appeal reported in 2 Q. B. Div. 96, and 36 L. T. Rep. (N. S.) 345, reversing a decision of the Queen's Bench Division, reported in 1 Q. B. Div. 348, and 34 L. T. Rep. (N. S.) 314, in favor of the appellants, who were the defendants below.

The plaintiffs were linen manufacturers at Belfast, and the defendants carried on business in London. The action was brought for the conversion of 250 dozen cambric handkerchiefs. The case was tried before Blackburn, J., and a special jury, in Nov., 1875.

At the trial it appeared that a person named Blenkarn ordered goods in writing from the plaintiff, giving as his address "Blenkarn & Co., 37 Wood street, and 5 Little Love Lane, Cheapside." There was a very respectable firm of Blenkiron & Sons, carrying on business in Wood street, whose name was known to the plaintiffs, and they supplied the goods, be-