

MAN.

K. B.

the information that these particulars will give him, I direct that costs of this motion be costs in the cause.

Motion granted.

QUE.

K. B.

JACQUES v. NORMANDEAU.

Quebec Court of King's Bench, Sir Horace Archambeault, C.J., Trenholme, Cross, Carroll and Pelletier, J.J. March 12, 1915.

VENDOR AND PURCHASER (§ III—35)—*Sale a réméré*—*Reservation of right to inhabit*—*Subsequent sale*—*Arts. 495 et seq. 1487, 1546, 1552 C.C.*—Petitory action. On October 16, 1909, the respondent Angéline Normandeau, wife, separated as to property, of Philibert Chrétien sold to the appellant Elisée Jacques, lot No. 124 of the cadastre of Deschailions for the price of \$1,500. She reserved the right to redeem the immovable within 10 years from the time of sale, and the right to continue to occupy the premises on paying the annual interest on the price of sale, taxes, insurance premiums and expenses of maintenance.

On May 1, 1914, without having exercised the right to redeem already lost by her default to maintain the immovable in a good state of repair, she sold again the same immovable to the respondent Eugène Audet for the price of \$2,089.65, of which \$589.65 was paid down and \$1,500 on discharge of the vendor from the terms of the sale, with right of redemption of October 16, 1909. Some days after the respondent Audet took possession of the immovable and announced it to be for sale by means of notices placed upon the house.

From that arose the petitory action of the appellant against the two respondents in which he demanded the recognition of his right of ownership in conformity with his title and the annulment of the sale of May 1, 1914, as being the sale of the thing to another.

The respondents by their pleas set up the clauses for redemption, and the right to inhabit stipulated for in the sale of 1909 to the appellant, the right of the respondent Normandeau to convey his rights and his obligations, and finally, their good faith.

By judgment on November 3, 1914, the Superior Court of the district of Quebec, presided over by Dorion, J., dismissed the plaintiff's action. This judgment is confirmed by the Court of Appeal, Pelletier, J., dissenting.