

FERGUSON, J., held, that the evidence failed to shew that at the time of the conveyances in question any debts were owing by the defendant Hennessy, except a debt fully secured by mortgage, since satisfied.

Held, also, that there is no evidence of fraudulent intent nor efforts from which fraudulent intent can be inferred. The conveyances to the defendant's wife cannot be disturbed, and consequently the conveyance by her to her daughter Mrs. Cameron cannot be upset.

Action dismissed with costs.

Boyce & Draper, Rat Portage, solicitors for plaintiff.

Moran & Mackenzie, Rat Portage, solicitors for defendant.

FERGUSON, J.

AUGUST 22ND, 1902.

TRIAL.

RUTTAN v. BURK.

Assessment and Taxes—Sale for Arrears—Assessment Act, 1892—Tax, when Due.

Action brought by plaintiff to have it declared that the sale of certain lands in Port Arthur for alleged arrears of taxes for 1892, 1893, and 1894 was illegal and void. The by-law of the municipality number 354 imposing the taxes and fixing the rate was passed October 18th, 1892. It was also objected that the plaintiff has no status to maintain the action.

R. C. Clute, K.C., for plaintiff.

F. A. Anglin, K.C., for defendant.

FERGUSON, J., referred to Assessment Act of 1892, latter part of sec. 140 and to sec. 160; and held that what these sections really mean is that the taxes for the year 1892 must be declared to have been due before they were imposed by the said by-law (354), and in this view a part of the taxes for which these lands were sold was in arrear for three years; and again the legislature by 63 Vict. ch. 86, validated sales of lands for taxes in Port Arthur prior to January 1, 1899; consequently the sale was a good sale. Held, also, that in this view of the sale, it is unnecessary to consider the question raised of the status of the plaintiff in the action and his right to maintain it.

Action dismissed with costs.

W. A. Leys, Port Arthur, solicitor for plaintiff.

David Mills, Port Arthur, solicitor for defendant.