

My first impression, therefore, was that the plaintiffs in the first action were entitled to priority, under the first "option," only in regard to the rights and interests of the husband in the land; and that the defendants in that action were entitled to priority to the extent of the wife's rights and interests in it; but I now think, and find, that there never was any intention on the part of anyone concerned in the third "option" to sever in any way the rights and interests of husband and wife; that the contract was for all or nothing; and failing to get all they take nothing; just as if an attempt were made to compel them to take the wife's rights and interests in the land only they would have a complete defence in the assertion that it was to be all or nothing; and accordingly the wife was not guilty of a breach of her agreement with these defendants in joining in the deed to the plaintiffs if the husband were bound by the first option to so convey; and in this case, as the pleadings and evidence stand, I must hold that he was.

It ought, therefore, to be adjudged in the first mentioned action that the plaintiffs' deed has priority over the defendants' option; which judgment, duly registered, will clear the title of any cloud that "option" may now be upon it.

It appears that whilst these civil actions were pending criminal proceedings were taken against one of the parties to them in connection with the registration of the third option; and I can have no doubt that such proceedings were taken for the purpose of indirectly affecting the proceedings in these civil actions; a thing much to be deprecated. There seems to be no reason, nor indeed any excuse, for not waiting until the civil proceedings begun were concluded, and the whole circumstances disclosed in evidence, before making the criminal charge.

There will be judgment for the plaintiffs in the first mentioned action as I have intimated; but under all the circumstances of the case, there will be no order as to any of the costs of it.

In the other action, the defendants appearing, and the plaintiffs not appearing, for trial, the defendants have a right to have it dismissed, and they may take that right with costs.

Proceedings in each action, upon this judgment, will be stayed for 30 days.