

On the 12th of January the real estate of the Sugar Company was sold by the sheriff, and the Bank were adjudged the purchasers at the price of \$1,400. On the 13th of January McDougall and Beard requested the Bank manager to get the deed of sale from the sheriff, so that the deed of sale from the Bank to McDougall and Beard, subject to the conditions and terms of the manager, might be at once prepared.

On the 19th of January, 1883, the Bank executed a conveyance of the property to Rough. This was done at the request of McDougall and Beard for reasons into which it is not necessary to enter. The conveyance was made by the Bank "with warranty as regards their own acts only." The consideration was \$49,439 of which \$9,439 were acknowledged as already received, leaving \$40,000 still due.

On the 28th April, 1883, the Hochelaga Bank, who were creditors of the Pioneer company, gave notice to the appellant Bank of their intention to take proceedings to set aside the sheriff's sale. On the 25th of June following, such proceedings were initiated by a petition. The appellant Bank appeared as defendants. The respondents Rough, McDougall and Beard were all *mis-en-cause* as being in possession of the property. They did not defend the proceedings, but submitted themselves to the judgment of the Court.

On the 18th of May, 1884, the appellant Bank commenced an action to recover the sums due under the provisions of the deed of sale. In the month of September following, Rough instituted an action to set aside that deed and to recover the sums paid in respect of the sale. The cross action and the petition of the Hochelaga Bank were consolidated by orders of the Court, and by consent the evidence taken on the petition was made evidence in the actions.

On the 20th February, 1890, Mr. Justice Taschereau gave judgment in favour of the Hochelaga Bank on their petition, annulling the sheriff's sale and all proceedings thereunder. On the 10th of March following he gave judgment in the cross actions in favour of the Eastern Townships Bank, with the result that whilst the purchasers were deprived of the subject matter of the sale they were held still liable to pay the price agreed upon. The ground upon which this decision proceeded was mainly that the purchase from the sheriff was made by the