

SECOND DIVISIONAL COURT.

FEBRUARY 4TH, 1916.

*HUNT v. LONG.

Chattel Mortgage—Payment of Existing Debt and Future Indebtedness Secured in one Instrument—Affidavits of Bona Fides—Mortgage Invalid as to Future Indebtedness—Validity as to other Part—Bills of Sale and Chattel Mortgage Act, R.S.O. 1914 ch. 135, secs. 5, 6.

Appeal by the plaintiff from the judgment of the First Division Court in the County of Wentworth upon an interpleader issue as to the validity of a chattel mortgage under which the defendant claimed property seized under the plaintiff's execution against the goods of the mortgagor. It was found in the Division Court that the mortgage was a valid security in so far as it secured the payment of an existing debt.

The appeal was heard by MEREDITH, C.J.C.P., RIDDELL, LENNOX, and MASTEN, JJ.

G. H. Sedgewick, for the appellant.

H. S. White, for the defendant, respondent.

MEREDITH, C.J.C.P., delivering judgment, said that the one question involved in the appeal was, whether a chattel mortgage given for two quite separate and independent purposes, and so, really, two mortgages in the one instrument, was altogether invalidated by the Bills of Sale and Chattel Mortgage Act, R.S.O. 1914 ch. 135, because, although it complied in all respects with the provisions of that enactment as to the one purpose, it did not comply with it as to the other, and was on all hands admitted to be bad as to that.

The two purposes of the mortgage were: (1) to secure the payment of an existing debt; and (2) to secure future indebtedness.

The enactment makes separate and different provisions as to the affidavit of bona fides which shall be registered with the mortgage in the case of an existing debt and in the case of future indebtedness. See secs. 5 and 6.

No reason had been given, nor could the learned Chief Justice imagine any, why the whole mortgage should be invalid because one part was; nor had any case been referred to, or found by the learned Chief Justice, which gave support to the appellant's contention.