

1862.

Bank of
Toronto
v.
Moles.

ferred in some respects in its details from that which he had contemplated the day before; that could not have the effect of establishing fraud against the truth of the case.

Then as to the point that the trust deed of the 5th of January having never been registered, the judgment of the plaintiffs, though subsequent, being entered on the 8th of January and registered on the 9th of January, 1858, will prevail over the defendants' registered conveyances of the 4th of January: what the plaintiffs mean to contend is, that the deed to the defendants of the 4th of January, if it stood alone, must be treated as fraudulent, because it is on the face of it voluntary; that it could not have stood alone against the judgment creditors, and cannot receive aid from the declaration of trust, because the deed is still unregistered, and so must be treated as fraudulent against the plaintiffs' registered judgment. (a)

Judgment.

But I think it was rightly held, in the court below, that as soon as we find that the authorities warrant the refusing to exclude evidence of a consideration beyond the five shillings expressed in the deed, there seems to be an end of this objection. It is under the deed of the 4th of January, 1858, that the defendants make title; and if that deed is not in itself void, merely because a valuable consideration does not appear on the face of it, then all descriptions of evidence may be resorted to in order to ascertain the real objects and intention of that deed, and thus to settle the question of *bona fides*. The objection amounts to this—that the unregistered declaration of trust is not admissible evidence, even to show the object with which the first deed was made, because we are to take the declaration of trust to be void as against these plaintiffs, who registered their judgment. That proviso of the registry law, however, would only

(a) Consol. Stats. U. C., ch. 89, sec. 53.

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