

imminent, must be reputed to have been made in fraud of creditors and that the declaration of trust could not effect a transfer of the policy. This judgment was reversed by the Court of King's Bench, which, on a different appreciation of the evidence, decided that there had been no proof to raise a presumption of fraud and that the intervenant was the true beneficiary under the policy and in the circumstances of the case.

Held, affirming the judgment appealed from, that under the circumstances, the mere relationship of the father and the son did not give rise to a presumption of fraud in the transactions between them; that the purchase of the property leased by the lessee at the sheriff's sale put an end to the lease by vesting the title to the fee in the lessee, and at the time of the loss by fire, the execution debtor had no insurable interest in the property; that during the whole of the time that the policy of insurance in question was in force, the intervenant had an insurable interest in the property, first, as the lessee thereof, and afterwards as owner in fee, and that he alone was entitled to the moneys payable under the policy of insurance. Appeal dismissed with costs.

Beaudain, K.C., and *Gouin*, K.C., for appellants. *Brodeur*, K.C., and *Pelletier*, for respondent.

Que.]

HILL v. HILL.

[Oct. 20, 1903.]

Action for account—Partition of estate—Requete civile—Amendment of pleadings—Supreme Court Act, s. 63—Order nunc pro tunc—Final or interlocutory judgment—Form of petition in revocation—Res judicata.

On a reference to amend certain accounts already taken, a judgment rendered Sept. 30, 1901, adjudicated on matters in issue between the parties and, on the accountant's report, homologated 25th. October, 1901, judgment was ordered to be entered against the appellant for \$26,316, on January 30, 1902. The appellant filed a requete civile to revoke the latter judgments within six months after it had been rendered, but without referring to the first judgment in the conclusions of the petition. It was objected that the first judgment had the effect of *res judicata* as to the matters in dispute and was a final judgment *inter partes*.

Held, that whether the first judgment was final or merely interlocutory the petition in revocation must be taken as impeaching both former judgments relating to the accounts upon which it was based, that it came in time as it had been filed within six months of the rendering of the said last judgment and that it virtually raised anew all the issues relating to the taking of the accounts affected by the two former judgments. A motion to amend the petition so as to include specifically any necessary conclusions against the judgment of Sept. 30, 1901, had been refused in the court below and was renewed on the appeal to the Supreme Court of Canada.