

MIDDLETON, J.

JANUARY 31ST, 1920.

## WRIGHT v. PETERS.

*Vendor and Purchaser—Agreement for Sale of Land—Default of Purchaser in Making Deferred Payments—Power of Resale—Liability of Vendor to Account—Forfeiture of Claim by Default.*

An action by a vendor of land against the purchaser for a declaration that, by reason of the default of the defendant, the purchaser in making the deferred payments under two agreements of purchase and sale, the agreements were of no force or effect, the defendant had no interest in the land, and had forfeited all moneys paid upon the agreements.

The action was not defended, and the plaintiff moved for judgment on the statement of claim.

The motion was heard in the Weekly Court, Toronto.

J. M. Bennett, for the plaintiff.

No one appeared for the defendant.

MIDDLETON, J., in a written judgment, said that it seemed well-settled that where there is a power of resale the vendor is not liable to account to the purchaser for any surplus; and the purchaser by his default has lost any claim: *Dart on Vendor and Purchaser*, 7th ed., pp. 179, 180; *Ex p. Hunter* (1801), 6 Ves. 94, 97.

The judgment should so declare.