

PRESCOTT v. TRAPP & CO.

1912

*Oct. 7.

ON APPEAL FROM THE COURT OF APPEAL FOR BRITISH COLUMBIA.

Sale of chattels—Public auction—Disclosure of principal—Liability of auctioneer—Giving credit—Post-dated cheque.

APPEAL from the judgment of the Court of Appeal for British Columbia(1), affirming the judgment of Grant Co. J., in the County Court of Vancouver, which maintained the action of the plaintiffs (respondents) with costs.

An auctioneer sold two horses, by public auction, to a bidder who settled for the price by giving the auctioneer his cheque post-dated several days after the sale, and the auctioneer then gave his cheque for the purchase price, less his commission, to the owners of the animals. The purchaser took possession of the horses, but, on the following day, discovering that a third person held a lien on them, he stopped payment of the cheque which he had given at the time of the purchase. The plaintiffs' action for the recovery of the amount of the cheque was maintained by the county court judge and his judgment was affirmed by the judgment now appealed from, Irving J. dissenting.

After hearing counsel on behalf of the appellant, and without calling upon the respondents for any argument, the Supreme Court of Canada dismissed the appeal with costs.

Appeal dismissed with costs.

McCrossan for the appellant.

C. W. Craig for the respondents.

*PRESENT:—Sir Charles Fitzpatrick C.J. and Davies, Idington, Duff, Anglin and Brodeur JJ.

(1) 17 B.C. Rep. 298.