
THOMAS v. GUAY

1927

ON APPEAL FROM THE COURT OF KING'S BENCH, APPEAL SIDE,
PROVINCE OF QUEBEC

*Feb. 18.
*April 20.

Action pétitoire—Titles from same owner to more than one person—Priority of title—Good faith—Reimbursement for improvements—Evidence—Arts. 417, 462, 1488, 1571, 2098 C.C.

APPEAL from a decision of the Court of King's Bench, appeal side, province of Quebec (1) varying the judgment of the Superior Court, Belleau J.

The respondent by his action sought to revendicate from the appellant two parcels of land. The appellant alleged that he was the owner of the property with a good title; and he also claimed a right of retention until reimbursed for the costs of repairs and improvements made to the property.

The Superior Court maintained the respondent's action and dismissed the appellant's plea. Both parties appealed to the Court of King's Bench, the respondent in order to have struck off the reserve of a right of servitude in favour of the appellant and the latter to have his plea of compensation maintained. The main appeal was allowed by the appellate court and the cross-appeal dismissed.

The Supreme Court of Canada, after hearing counsel for both parties, reserved judgment, and, at a subsequent date, dismissed the appeal with costs.

Appeal dismissed with costs.

Ls. St-Laurent, K.C., for the appellant.

C. Dessaulles, K.C., and *Ls. St-Jacques* for the respondent.

*PRESENT:—Anglin C.J.C. and Duff, Mignault, Newcombe and Rinfret JJ.

(1) (1926) Q.R. 41 K.B. 454.