



CHAPTER 162

An act to ratify the sale of certain lots of land in the parish
of St. Laurent

[Assented to, the 29th of March, 1933]

WHEREAS Mount Royal Gardens, Limited, incorporated by letters patent granted by the Lieutenant-Governor of the Province of Quebec, on the 25th of February, 1930, and having its principal place of business in the city of Montreal, and Armand Bélanger, of the city of Montreal, notary public, in his quality of curator to the substitution created under the contract of marriage dated the 3rd of January, 1885, N. Viau, N. P., between Cléophas Fortier and Miss Philomène Cardinal, have, by their petition, represented: Preamble

That Mount Royal Gardens, Limited, in the terms of a deed of sale executed before Mtre. Norval Dickson, N. P., on the 10th of March, 1930, registered in the office of the registration division of Montreal on the 3rd of April, 1930, under No. 242490, acquired from one Arthur J. Nesbitt a large part of the immoveable property which lies within the boundaries of those subdivisions then known as Nos. 1, 2 and 5 of the official subdivision plan of the 15th of June, 1901, of lot No. 616 of the parish of St. Laurent;

That the said subdivision lots, among others, were annulled on the 15th of January, 1914, and replaced by redivision lots Nos. 6 to 273 inclusive of said original lot and Mount Royal Gardens, Limited, is in possession as registered proprietor of a number of said redivision lots;

That, for reasons which hereinafter appear, doubts have arisen as to the rights acquired by one Thomas S. Darling, an *auteur* of the said Arthur J. Nesbitt, with respect to the immoveable property which lies within the boundaries of the said subdivision lots Nos. 616-1, 2 and 5, and con-

sequently also as to the title of said Mount Royal Gardens, Limited, to the property of which it is possessed, as aforesaid;

That, on the 22nd of September, 1911, as appears by deed executed before Mtre. L. Bélanger, N.P., said Cléophas Fortier, in his quality of institute, and Jérémie Prudhomme, the then curator to a substitution created under the contract of marriage between the said Cléophas Fortier and his intended wife, Miss Philomène Cardinal, executed on the 3rd of January, 1885, before N. Viau, N.P., petitioned the Superior Court of the district of Montreal for authority to sell said subdivision lots Nos. 616-1, 2 and 5, and a family council advised that such a sale would be in the interest of institute and substitutes;

That the advice of the said family council was homologated by the said Superior Court on the 26th of September, 1911, the judgment of homologation specifically ordering that the said immoveable property be sold at public auction for a sum not less than sixty thousand dollars, that the price be paid in cash and deposited with the Prothonotary of the said court as a judicial deposit in conformity with the terms of Article 953a of the Civil Code, and that the sale be made before the said Mtre. L. Bélanger, N.P. and be evidenced by a deed executed before him;

That the conditions of sale prepared by the said Mtre. L. Bélanger, N.P., did not follow the terms of said judgment, but stipulated for payment in cash on execution of a deed of sale of a sum of thirty thousand dollars only, and for payment of the balance of purchase price in ten years from the first day of November, 1911, by consecutive annual instalments of not less than seven thousand dollars each;

That the sale of the said immoveable property by public auction took place on the 16th of October, 1911;

That at said sale the only bid received was one from the said Thomas S. Darling for ninety-nine thousand, five hundred and forty dollars, and the said immoveable property was adjudicated to him;

That on the 4th of November, 1911, the said Cléophas Fortier, as institute, and the said Jérémie Prudhomme, as curator, executed before Mtre. E. R. Décary, N.P., a deed of sale of said subdivision lots Nos. 616-1, 2 and 5 in favour of the said Thomas S. Darling, which said deed was registered on the 25th of November, 1911, in the office for the former registration division of Hochelaga and Jacques-Cartier under No. 201893, and the said Thomas S. Darling

at that time paid the sum of thirty thousand dollars, in cash, at the same time binding himself to make further payments, as in the said conditions of sale set forth;

That, at various times throughout the next few years the said Thomas S. Darling paid additional sums on account of the purchase price, amounting in all to eighteen thousand dollars;

That, in 1927, action was instituted against the said Thomas S. Darling to recover the balance of price then remaining outstanding, to wit, fifty-one thousand, five hundred and forty dollars;

That said action culminated in a transaction whereby it was agreed that, provided he make a cash payment of ten thousand dollars, the said Thomas S. Darling would be relieved of all further liability under the terms of the said deed of sale of the 4th of November, 1911, and be subrogated in the rights of the vendors against The Canadian Northern Montreal Land Company, Limited, (then in liquidation) to which said Company he, the said Thomas S. Darling, had previously sold the property in 1912, which said transaction was authorized by a judgment of the Honourable Mr. Justice Bruneau of the Superior Court, on the 20th of April, 1927;

That, by deed dated the 27th of June, 1927, passed before Mtre. L. Joron, N.P., registered on the 28th of June, 1927, in the office for the registration division of Montreal under No. 147719, the said Cléophas Fortier, as institute, and the said Armand Bélanger (by that time appointed curator to the said substitution in the terms of an act homologated by the said Superior Court, on the 29th of November, 1926), in conformity with the said transaction, acknowledged to have received from the said Thomas S. Darling a sum of ten thousand dollars in full and final settlement, and subrogated him in all rights against the said The Canadian Northern Montreal Land Company, Limited;

That, in view of the foregoing, (and as already indicated) there have arisen doubts as to the validity of the said sale to the said Thomas S. Darling and as to whether the aforesaid transaction and acquittance are binding;

That it is advisable that the said doubts be removed;

Whereas it is expedient to grant the prayer to that effect contained in the said petition;

Therefore, His Majesty, with the advice and consent of the Legislative Council and of the Legislative Assembly of Quebec, enacts as follows:

Validation
of certain
deed of sale.

1. The deed of sale passed before E. R. Décary, N.P., on the 4th of November, 1911, under No. 11340 of his repertory, and registered in the then registry office of Hochelaga and Jacques-Cartier under No. 201893, between Cléophas Fortier and Jérémie Prudhomme, as institute and curator respectively of the substitution created under the terms of the marriage contract of Cléophas Fortier and Miss Philomène Cardinal, and Thomas S. Darling, is ratified, confirmed and validated for all legal purposes.

Validation
of certain
transac-
tion and ac-
quittance.

2. The transaction between the said Cléophas Fortier as institute and Armand Bélanger as curator to the said substitution and the said Thomas S. Darling, which was authorized by judgment of the Honourable Mr. Justice Bruneau of the Superior Court of the district of Montreal on the 20th of April, 1927, and the acquittance evidenced by the deed between the same parties which was passed on the 27th of June, 1927, before Mtre. L. Joron, N.P., under No. 12133 of his repertory, and registered on the 28th of June, 1927, in the Registration Division of Montreal under No. 147719, are ratified, confirmed and validated for all legal purposes.

Coming into
force.

3. This act shall come into force on the day of its sanction.