

## CAP. XVI.

An Act to facilitate re-entry upon abandoned Lands in certain cases.

[Assented to 1st February, 1870.]

HER MAJESTY, by and with the advice and consent of the Legislature of Quebec, enacts as follows :

When and how seller may get back abandoned land.

**1.** Whenever land has been sold, under a deed of sale, and the seller is entitled, by reason of non-payment of price or any other cause, to demand the dissolution of the sale, and the buyer has abandoned the land and has left it so abandoned during two years or a longer period, then the seller may proceed in a summary manner as hereinafter provided to recover back the land so sold, and re-enter into possession of the same.

Notice of application.

**2.** A notice shall be served upon the buyer stating that at a time and place therein mentioned the seller will apply to a judge of the superior court to recover back the land, or, if the buyer cannot be found within the district, he may be ordered to appear in the manner prescribed by article 68 of the code of civil procedure.

The notice shall likewise be served upon any person then in actual possession of the land.

Delay between notice and application.

**3.** The delay between the service of the notice and the day on which the application is to be made shall be that prescribed for ordinary cases by article 75 of the said code, or that given by the said article 68, as the case may require.

How application shall be made.

**4.** After notice has been so given, and at the time and place mentioned in the notice, the seller may, by a petition setting forth the facts of the case and supported by affidavit, and production of the written evidence of sale, if in his hands, apply to a judge of the superior court to have the deed of sale declared void, and to be put in possession of the land.

Manner of contesting it.

**5.** No contestation of the said petition shall be allowed except by counter-affidavits produced within three days after the presenting of the petition.

Judgment on the petition.

**6.** After the said delay of three days the judge may, in his discretion, either reject the petition or render a judgment declaring the deed of sale void, and authorizing the petitioner to take possession of the land. In the event of the judgment rejecting the petition, it shall not prejudice the seller in any right he may have by law of bringing an action in the ordinary manner.

What may prevent judgment from being rendered.

**7.** No such judgment shall be rendered if at any time before the rendering thereof the buyer or any person for him or holding under him shall have paid either to the

seller or into the office of the prothonotary of the superior court the full amount of any instalments of purchase money or interest due in virtue of the deed of sale, or shall have fulfilled every obligation entered into therein by the failure to fulfil which the seller had become entitled to demand the dissolution of the sale.

8. If the seller is prevented by any person or persons from taking possession of the land in virtue of the said judgment, he may demand and obtain from the prothonotary of the superior court a writ of possession to eject such person or persons and to place the seller in possession, and article 550 of the code of civil procedure shall apply to such writ. Judgment may be enforced by writ of possession.

9. The buyer may obtain a review of the same judgment, and articles 495 to 504 inclusively of the code of civil procedure shall apply to such review. Review of judgment. Arts. 495 to 504, C. C. P.

10. All documents forming part of the proceedings under this act shall form part of the records of the superior court. Documents to belong to S. C.

11. Articles 2148, 2152 and 2153 of the civil code shall apply to the registration of any judgment rendered under this act, and to the cancelling of the registration of any deed of sale declared void by such judgment, but article 2154 shall not apply if under section 2 of this act, the buyer has been notified in the manner prescribed by article 68 of the code of civil procedure. Arts. 2148, 2152, 2153, 2154, C. C., as to registration and cancelling.

12. In construing and applying this act every buyer who having ceased to occupy the land by himself or by his family, has either made no transfer of his rights in the land or has made a transfer, but has not notified the seller is writing of such transfer, shall be deemed to have abandoned the land; and no actual possession of the land by any person shall be deemed to be a notice of any such transfer. What shall be deemed an abandonment.

13. The words "deed of sale" in this act shall mean and include not only any deed of sale but also any promise of sale or contract in the nature of a promise of sale followed by tradition and actual possession. Meaning of "deed of sale."

## CAP. XVII.

An Act to amend certain articles of the Code of Civil Procedure of Lower Canada.

[Assented to 1st February, 1870.]

HER MAJESTY, by and with the advice and consent of the Legislature of Quebec, enacts as follows:

1. Notwithstanding the provisions of articles 48, 84, 248, 461, 555, 559, 809, 836, 857, 899, 1081 and 1082 of the code Arts. 48, 84, 248, 461, 555, 559, 809, 836,

