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*Oct. 10.

*Oct. 26.

JAMES FRÉCHETTE (PLAINTIFF).....APPELLANT ;

AND

AUGUSTIN SIMMONEAU (DE- }
FENDANT) } RESPONDENT.APPEAL FROM THE COURT OF QUEEN'S BENCH, PRO-
VINCE OF QUEBEC, APPEAL SIDE.*Appeal—Jurisdiction—Amount in dispute—R. S. C. c. 135, s. 29 (b).*

In an action by the lessee of lands leased for 4 years and 9 months at a rental of \$250 per annum, to have the lease cancelled as being simulated as he was, at the time of the lease, owner of the property leased :

Held, that no amount of \$2,000 or upwards was in dispute, and that as the appeal did not relate to any title to land or tenements nor to annual rents within the meaning of sec. 29 (b) of R. S. C. c. 135, it could not be entertained by the Supreme Court of Canada.

APPEAL from the judgment of the Court of Queen's Bench, Province of Quebec, appeal side, reversing the judgment of the Superior Court, District of Quebec, which maintained the plaintiff's action with costs.

The nature of the action is stated in the judgment of the court delivered by His Lordship Mr. Justice Taschereau. On the hearing of the appeal :—

L. P. Pelletier Q.C. for the respondents, moved to quash the appeal on the ground that the action did not involve a sufficient amount nor raise questions of a nature to give the Supreme Court of Canada jurisdiction to entertain the appeal.

Fitzpatrick Q.C. (Solicitor-General), and *L. A. Taschereau* for the appellants *contra*, contended that

*PRESENT :—Taschereau, Gwynne, Sedgewick, King and Girouard JJ.

the action affected the title to the lands leased which the lessee, now appellant, claimed as purchaser.

1900
FRÉCHETTE
v.
SIMMONEAU.

The judgment of the court was delivered by :

TASCHEREAU J.—The plaintiff, appellant, is the lessee, and the respondent is the lessor in an authentic deed of lease, dated the 14th of October, 1895, for four years and nine months at \$250 a year. This action is to set aside that lease on the ground that it was a simulated deed and that the appellant was then, and is now, the owner of the property mentioned in that deed. The Superior Court granted his conclusions, and annulled the lease. The Court of Appeal reversed that judgment, and dismissed the action. The plaintiff now appeals.

The respondent moves to quash for want of jurisdiction. It is on the appellant to shew that the Court has jurisdiction; *Dugger v. Boccock* (1); and he has failed to do so. The motion must be granted with costs as if made on the first day of this term.

There is no pecuniary amount in controversy between the parties amounting to the sum or value of two thousand dollars. There is no constitutional point involved, and the matter in controversy does not relate to any fee of office, duty, rent, revenue or any sum of money payable to Her Majesty, or to any title to lands or tenements, annual rents or other matters or things where the rights in future might be bound. The word "annual rents" we have held to mean "*rentes foncières*." And the title to the ownership of the property leased is not the matter directly in controversy; there is no *res judicata* thereupon by the judgment of the Court of Appeal; the matter actually in dispute governs; the collateral effect of the judg-

(1) 104 U. S. R. 596.

1900
 FRÉCHETTE *Marshall* (1); "*The Jessie Williamson, Jr.*" (2); *New Jersey Zinc Co. v. Trotter* (3); *Rodier v. Lapierre* (4);
 SIMMONEAU. *Lachance v. La Société de Prêts et de Placements de Québec* (5).
 Taschereau J.

The motion is allowed with costs.

Appeal quashed with costs.

Solicitors for the appellant: *Fitzpatrick, Parent, Taschereau & Roy.*

Solicitor for the respondent: *Pierre Cantin.*
