

BOWKER v. LAUMEISTER.

1891

Trust—Not expressed in deed—Parol evidence of—Enforcement—Findings of fact. ^{*Nov. 19, 20.}

APPEAL from a decision of the Supreme Court of British Columbia affirming the decree made at the trial.

The suit in this case was brought to enforce an alleged trust in a deed absolute on its face, or, in the alternative, to have the property reconveyed or sold according to the terms of the alleged agreement. The defendant claimed that he had given valuable consideration for the transfer to him of the property conveyed by the deed, and the plaintiff had accepted the same in full satisfaction and payment therefor.

At the trial parol evidence was given to establish the alleged trust and its existence was found as a fact by the trial judge who made a decree ordering the property to be sold and the proceeds applied as, according to the contention of the plaintiff and the evidence in proof thereof, had been agreed upon. The full court affirmed this decree.

The Supreme Court held that the fact of the existence of the trust having been found by the trial judge, and such finding having been affirmed by the full court, it should not be disturbed on this further appeal.

Appeal dismissed with costs.

S. H. Blake Q.C., for the appellant.

Robinson Q.C., for the respondent.

*PRESENT:—Sir W. J. Ritchie C.J., and Strong, Taschereau, Gwynne and Patterson JJ.