Judgment of the Lords of the Judicial Committee of the Privy Council on the Appeal of Angus Corinthe and others v. *The Ecclesiastics of the Seminary of St. Sulpice of Montreal, from the Court of King's Bench for the Province of Quebec (Appeal Side); delivered the 19th July* 1912.

PRESENT AT THE HEARING:

THE LORD CHANCELLOR.
LORD MACNAGHTEN.
LORD ATKINSON.
LORD SHAW.
SIR CHARLES FITZPATRICK.

[DELIVERED BY THE LORD CHANCELLOR.]

For upwards of a century a controversy has existed concerning the title to the Seigniory of the Lake of Two Mountains. The Ecclesiastics of the Seminary of St. Sulpice of Montreal, on the one hand, have claimed it under grants from the King of France, and under Statutes passed later on by the Canadian Legislature. Their assertion has been that they hold the Seigniory in the full proprietary title, and that the Indians residing within the limits of the Seigniory have no individual title to it, nor any right, competent to them as individual beneficiaries, to control the administration of the land. The Indians belonging to the band resident upon the Seigniory have, on the other hand, contended that they possessed proprietary rights, or at all events indefeasible rights of occupation, by virtue of either an unextinguished aboriginal title, or occupation sufficient on which to found a

prescriptive title, or by virtue of an obligation created by the grants, statutes and other documents relating to the Seigniory.

The Appellants brought an action on the footing that they were the duly elected chiefs of a band of Indians residing on the land in question. By their declaration they claimed possession of the Seigniory, or at all events of certain common lands comprised in it, or alternatively, that if the Defendant Ecclesiastics had a title to the Seigniory, such title was subject to a trust for the benefit of the Plaintiffs and those whom they represented, such that the latter were entitled to the free use of the common lands free from interference.

Among the important documents in the case are certain grants from the King of France in 1717 and 1718, and in 1733 and 1735. These grants, which were made to predecessors of the Respondents, purport to convey to them land forming part of the Seigniory, with a full proprietary title, but on the condition that they should alter the situation of a certain mission they had founded among the Indians in the neighbourhood, and build a church and a fort for the security of the latter. The circumstances under which these grants were made, and the events which occasioned them, appear in detail in the Judgment of the Superior Court, and their Lordships do not think it necessary to refer to them in detail.

In 1841 the Legislature of Lower Canada passed an Act with a preamble referring to a controversy about the title of the Ecclesiastics of the Seminary, not relating, however, to the questions involved in the issues raised here. By Section 1 they were declared to be a Corporation. By Section 2 their title to the Seigniory was confirmed, and it was enacted that the Corporation should hold as fully as their predecessors, but

for certain purposes, objects and intents. These were to be the cure of souls within the parish, the Mission of the Lake of the Two Mountains, for the instruction and spiritual care of the Algonquin and Iroquois Indians, the support of a College at Montreal, the support of schools for children in the parish, and of the poor, invalids and orphans, the support and maintenance of the members of the Corporation, its officers and servants, and the support of such other religious, charitable and educational institutions as may, from time to time, be approved by the Governor of the Province, and for no other objects, purposes or intents.

By Section 14 the Ecclesiastics were to lay accounts before the Governor of the Province, and by Section 15 they were, in respect of temporal matters, to be subject to visitation.

Their Lordships think that the effect of this Act is to place beyond question the title of the Respondents to the Seigniory, and to make it impossible for the Appellants to establish an independent title to possession or control in the administration. They agree with the learned Judges in the Courts below in thinking that neither by aboriginal title, nor by prescription, nor on the footing that they are *cestuis que trustent* of the Corporation, can the Appellants assert any title in an action such as that out of which this Appeal arises. They agree with the reasoning upon these points in the Judgments of the Courts below.

They desire, however, to guard themselves against being supposed to express an opinion that there are no means of securing for the Indians in the Seigniory benefits which Section 2 of the Act shows they were intended to have. If this were a case which the practice of the English Courts governed, their Lordships might not improbably think that there was a charitable

trust which the Attorney-General, as representing the public, could enforce, if not in terms, at all events *cy pres* by means of a scheme, or, if necessary, by invoking the assistance of the Legislature. Whether an analogous procedure exists in Quebec, and whether in that sense the matter is one for the Government of the Dominion or of that of the Province, are questions which have not been, and could not have been, discussed in proceedings such as the present. All their Lordships intend to decide is that, in the action in which the present Appeal arises, the Plaintiffs' claim was based on a supposed individual title which their Lordships hold not to exist. If in some different form of proceeding, in which the Crown, as representing the interest of the public, puts the law in motion, or if negotiations are initiated for the settlement of a question as to the location of these Indians, which may be of importance to the general interests of Canada, their Lordships desire to make it clear that nothing they have now decided is intended to prejudice the questions which may then arise.

They will humbly advise His Majesty to dismiss the Appeal. They gather from what was said at the Bar that it is unnecessary for them to dispose of the costs.

In the Privy Council.

ANGUS CORINTHE AND OTHERS

v.

THE ECCLESIASTICS OF THE SEMINARY OF ST. SULPICE OF MONTREAL.

DELIVERED BY
THE LORD CHANCELLOR.

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