

1901  
 Dec. 11.

THE KING ON THE INFORMATION  
 OF THE ATTORNEY-GENERAL OF  
 CANADA ..... PLAINTIFF;

AND

THOMAS SEDGER.....DEFENDANT.

*Expropriation—Public work—Compulsory taking—Value to be considered  
 —Compensation.*

It is the value of the land at the time of the expropriation that the court has to consider in assessing compensation. If the property has depreciated in value between the time it was acquired by the person seeking compensation and the time of the expropriation by the Crown, the former has to bear the loss.

2. Where the property is occupied by the owner as his home, and he has no need or wish to sell, the compensation ought to be assessed upon a liberal basis.

INFORMATION for the expropriation of certain lands required for the purposes of a public work of defence.

The facts of the case are stated in the reasons for judgment.

September 28th and 30th, 1901.

The case was heard at Victoria, B.C.

*A. F. R. Martin* for the plaintiff.

*George Jay* for the defendant.

THE JUDGE OF THE EXCHEQUER COURT now (December 11th, 1901), delivered judgment.

The only question to be determined is the amount of compensation that ought to be paid to the defendant for land adjacent to the barracks at Work Point, Victoria harbour, B.C., taken from him, for purposes of defence. The land taken formed part of lot number one, block twenty, portion of lot twenty-nine,

section sixteen, Viewfield farm, in the District of Esquimalt. The whole of the defendant's lands there, with the buildings and improvements thereon, was taken. The land, with the buildings and improvements, had cost the defendant between four thousand and five thousand dollars, but he had bought the land when prices therefor were inflated, and so the property had cost him more than it would have cost at the time when it was taken or since, and more than it would sell for then. The Crown offers to pay the sum of three thousand five hundred dollars, and that possibly is as much as he could have obtained for it at the time of the expropriation had he been obliged to sell it. But he had no need or wish to sell it. It was his home, from which, by the proceedings that were taken, he was compelled to remove against his will. I think he was not wise in refusing to give up possession to the Crown; but for that he has had to bear the costs of the proceeding to obtain possession, and in view of what the place had cost him, it is not to be wondered at that he thought the amount offered to him to be insufficient. There is other evidence than his own that the offer was inadequate; but on the evidence as a whole it would appear not to have been unreasonable. The case is one, however, in which the compensation ought to be assessed liberally, and I shall allow a small advance upon the amount tendered. I assess the compensation to be paid for the land taken at three thousand seven hundred and fifty dollars. Allowing that amount the case does appear to involve some hardship, as it leaves the defendant out of pocket; but that in reality is attributable to his having bought the land at prices that have not been maintained.

The sum of three thousand one hundred and forty dollars has already been paid to the defendant: He is entitled to the balance of six hundred and ten dollars,

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with interest (in accordance with the Act 63 & 64 Vict. c. 22) at five per centum per annum since the fourteenth of January, 1891, when possession was obtained.

There will be the usual judgment and declaration as to the title of the lands being vested in the Crown, and the defendant will be allowed his costs.

*Judgment accordingly.*

Solicitors for the plaintiff: *Langley & Martin.*

Solicitors for the defendant: *Yates & Jay.*

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