

CANADA / JUDGMENT

Laurentide Mica Co. v. Fortin

(1907) 39 SCR 680

COURT

Supreme Court of Canada

DECIDED

7 May 1907

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Laurentide Mica Co. v. Fortin Collection Supreme Court Judgments Date 1907-05-07 Report

(1907) 39 SCR 680 Judges Fitzpatrick, Charles; Girouard, Désiré; Davies, Louis Henry; Idington, John; MacLennan, James On appeal from Ontario Subjects Property law Decision Content Supreme Court of Canada Laurentide Mica Co. v. Fortin, (1907) 39 S.C.R. 680 Date: 1907-05-07 The Laurentide Mica Co. et al. v. Fortin et al. 1907: March 6, 7; 1907: May 7. Present: Fitzpatrick C.J. and Girouard, Davies, Idington and MacLennan JJ. Boundary—Order for bornage—Evidence—Existing posts and blazing—Injunction—Expertise—Reference to surveyors—Reports and plans—Costs in action en bornage. APPEAL from the judgment of the Court of King's Bench^[1] affirming, with a slight variation, the judgment of the Superior Court, District of Ottawa, which ordered the appointment of surveyors to proceed to the bounding and delimitation of the contiguous lands of the parties, according to a line of division between them from certain posts, said to be in existence at the southerly and northerly boundaries of the lots of land, by following blazed trees between the said posts, directing a plan and report to be made, and rejecting certain objections to the reception of evidence, taken by the appellants, plaintiffs, with costs against the said appellants. By the judgment appealed from, it was held, that oral testimony as to a former bornage by a surveyor, with the production of his field notes, as to the existence of posts at either end of the division line and blazings along said line, and of eighteen years' possession by one of the owners in conformity therewith, was admissible and sufficient to establish a settlement of the boundaries, in the absence of an official statement or authentic proces-verbal thereof; and, further, that the award of costs to the successful party had been properly given, in the action en bornage, which was governed by the usual rules as to costs of litigation. After hearing counsel on behalf of the parties, on the appeal, the Supreme Court of Canada dismissed the appeal with costs, for the reasons given in the court below. Appeal dismissed with costs. Belcourt K.C. and Brooke K.C. for the appellants. Foran K.C. and McDougall K.C. for the respondents.

[1] Q.R. 15 K.B. 432.

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