

NATIONAL ASSEMBLY
Thirty-third Legislature, second session

1989, chapter 99

AN ACT RESPECTING AN IMMOVABLE OF THE CADASTRE OF THE CITY OF MONTRÉAL (SAINT-ANTOINE WARD)

Bill 249

Introduced by Mr Jacques Chagnon, Member for Saint-Louis

Introduced 31 November 1988

Passage in principle 6 April 1989

Passage 6 April 1989

Assented to 12 April 1989

Coming into force: 12 April 1989

Act amended: None





CHAPTER 99

An Act respecting an immovable of the cadastre of the city of Montréal (Saint-Antoine ward)

[Assented to 12 April 1989]

Preamble

WHEREAS Charles Séraphin Rodier died at Montréal on 26 January 1890, leaving a will executed on 23 January 1890 before Eustache Prud'homme, notary, a copy of which was registered at the registry office of the registration division of Montréal-Est under number 118520;

Whereas Charles Séraphin Rodier created a fiduciary substitution, giving the management and seizing of his property, until the opening of the substitution, to his testamentary executors as trustees;

Whereas Charles Séraphin Rodier granted to his testamentary executors the power to sell, by agreement or otherwise, all the immovables of the estate, save, among others, those situated within the boundaries of the city of Montréal;

Whereas the estate of Charles Séraphin Rodier included an immovable known as part of original lot number six hundred and ten F (610F) of the cadastre of the city of Montréal (Saint-Antoine ward), as described in the schedule, thence forming part of the property subject to the restriction respecting the testamentary executors' power to sell;

Whereas, under the terms of a judgment of the Superior Court of the district of Montréal dated 1 June 1945, in the case bearing number 971 in the records of the court, judge Edouard Fabre Surveyer authorized the sale of the immovable by the then testamentary executors to Canadian Pacific Railway Company, the whole in accordance with the provisions of section 206 of the Railway Act (S.C., 1919, chapter 68);

Whereas, by deed of sale executed on 23 July 1945 before Hector Décary, notary and registered at the registry office of the registration division of Montréal under number 622378, Marie Joseph Louis Léonce Léopold Rodier and Marie Joseph Félix Edmond Rodier, acting as sole testamentary executors of the late Charles Séraphin Rodier, sold the immovable to The Scottish Trust Company instead of selling it to Canadian Pacific Railway Company;

Whereas it was only in 1949 that the testamentary executors were given, under the Act respecting the will of Charles Séraphin Rodier (1949, chapter 133), the power to sell all the immovables of the estate wherever they be situated;

Whereas the testamentary executors of the estate retained their office until the final settlement of the estate, the whole in accordance with the provisions of section 2 of the Act respecting the Charles Séraphin Rodier estate (1975, chapter 122);

Whereas, on 9 August 1977, the final settlement of the estate was achieved under the terms of a deed of final partition executed before Hubert Leroux, notary, under number 2054 of his minutes and whereas the testamentary executors consequently are no longer in office;

Whereas doubts remain as to the validity of the sale;

Whereas there would be practical difficulties in obtaining confirmation of the sale from the substitutes or their assigns;

Whereas La Société Immobilière Marathon Limitée is the registered owner of the immovable, having acquired it under the terms of a deed of sale by Canadian Pacific Limited executed before André Groulx, notary, on 13 October 1988, and registered at the registry office of the registration division of Montréal under number 4081844, and whereas it is therefore in the interest of the registered owner that its title of ownership be confirmed and that the sale registered at the registry office under number 622378 be validated;

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

Confirmation
of sale

1. The sale by the testamentary executors of Charles Séraphin Rodier to The Scottish Trust Company, executed before Hector Décary, notary, on 23 July 1945, registered at the registry office of the registration division of Montréal under number 622378 and

affecting the immovable described in the schedule is hereby confirmed to the extent that it could be contested on the grounds that the testamentary executors sold the immovable to The Scottish Trust Company instead of to the Canadian Pacific Railway Company as they were authorized to do by virtue of a judgment rendered on 1 June 1945 by judge Edouard Fabre Surveyer (no. 971 in the records of the Superior Court of the district of Montréal for the year 1945).

Personal
rights

2. Real rights cancelled by this Act are replaced by personal rights exercisable against La Société Immobilière Marathon Limitée. The personal rights have a value equal to the value of the real rights they replace as it stood immediately before 12 April 1989, and they are prescribed on the date on which, but for this Act, the real rights would have been prescribed.

Registration

3. Registration of a certified copy of this Act shall be made by deposit.

Entry

At the time of registration, the registrar shall write in the margin of the deed registered under number 622378 the words "Confirmed by the Act registered under number... as regards any defect corrected by the said Act".

Coming into
force

4. This Act comes into force on 12 April 1989.

SCHEDULE

(Section 1)

DESIGNATION

Part of original lot number six hundred and ten F (610 F) of the official cadastre of the city of Montréal (Saint-Antoine ward), registration division of Montréal, as shown on the plan prepared by Pierre Alarie, land surveyor, dated 11 April 1969, bearing number F.S. 30739, reference 6904-003, bounded in front towards the southeast by de la Gauchetière street (no cadastral designation), towards the southwest by lot 610E, towards the northwest by another part of lot 610 F and by part of lot 610 F-1, and towards the northeast by another part of lot 610 F and by lot 610 F-5, measuring twenty-one feet and eight tenths (21.8') along its southeast line, sixty-six feet and twenty-eight hundredths (66.28') along its southwest line, twenty-one feet and thirty hundredths (21.30') along its northwest line and sixty-eight feet and fifty-four hundredths (68.54') along its northeast line, and containing an area of one thousand four hundred and forty-nine square feet and seventy-one hundredths (1 449.71 ft²).

The whole, English measure, more or less.

That part of lot is now known as being part of lot number two thousand four hundred and twenty-seven (2427 part) of the official cadastre of the city of Montréal (Saint-Antoine ward), registration division of Montréal, identified by the letters A-B-C-D-A on the plan prepared by Jacques Goudreault, land surveyor, dated 2 March 1989, and bearing number D 5754, minute 4238, reference 8903-004; starting from point "1" on the said plan, being the south corner of lot 2427; thence, northeasterly ($40^{\circ}05'00''$) along the southeast limit of lot 2427, one hundred and fifty-two feet and two hundredths (152.02 ft) or (46.33 m) to point "A" on the said plan, being the starting point; thence, northwesterly ($305^{\circ}15'40''$), sixty-six feet and twenty-eight hundredths (66.28 ft) or (20.20 m) to point "B" on the said plan; thence, northeasterly ($34^{\circ}08'30''$), twenty-one feet and thirty hundredths (21.30 ft) or (6.49 m) to point "C" on the said plan; thence, southeasterly ($124^{\circ}54'20''$), sixty-eight feet and fifty-four hundredths (68.54 ft) or (20.89 m) to point "D" on the said plan; thence, southwesterly ($220^{\circ}05'00''$) along the southeast limit of lot 2427, twenty-one feet and eight tenths (21.8 ft) or (6.64 m) to point "A", the starting point; bounded towards the northwest, northeast and southwest by part of lot 2427, towards the southeast by de la Gauchetière street (shown on the original plan); containing an area of one thousand four hundred and forty-nine square feet and seventy-one hundredths (1 449.71 ft), English measure (or 134.68 m²); the directions mentioned in the technical survey are bearings established with reference to the SCOPQ system (zone 8, central meridian $73^{\circ}30'$).