

NATIONAL ASSEMBLY
Thirty-third Legislature, first session

1987, chapter 130
**AN ACT RESPECTING CERTAIN IMMOVABLES OF THE
CADASTRE OF THE PARISH OF LA MALBAIE**

Bill 259

Introduced by Mr Daniel Bradet, Member for Charlevoix

Introduced 10 December 1987

Passage in principle 18 December 1987

Passage 18 December 1987

Assented to 18 December 1987

Coming into force: 18 December 1987

Act amended: None



CHAPTER 130

An Act respecting certain immovables of the cadastre of the parish of La Malbaie

[Assented to 18 December 1987]

Preamble WHEREAS Donohue Inc. and Donohue Malbaie Inc. are the owners of parts of lots 416, 417, 418 and 419 of the cadastre of the parish of La Malbaie by virtue of various deeds registered at the registry office of the first registration division of Charlevoix at La Malbaie, including the deeds registered under numbers 21946, 49534, 49598, 49599, 49602, 49628, 49891, 50279, 50419, 50922, 50959, 59880 and 80170;

Whereas the title to the said immovables is affected by various defects, owing in particular to the fact that certain transfers of ownership were not registered and that the boundaries of some of the said immovables are imprecise;

Whereas one of the said immovables was formerly a street and there is doubt as to the validity of the sale thereof, in particular, since it was made without the approval of the Commission municipale du Québec and the sale price of one dollar may be considered as a lack of valuable consideration or as a municipal grant;

Whereas Donohue Inc. and Donohue Malbaie Inc. have made inquiries to locate the interested parties other than the town of Clermont but have found only some of them;

Whereas the town of Clermont and the other interested parties that have been located have been informed of the introduction of this Act;

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

Validity of
title

1. The title of Donohue Inc. or of Donohue Malbaie Inc. to that part of lot 418 of the cadastre of the parish of La Malbaie which is described in a deed registered under number 50922 at the registry office of the first registration division of Charlevoix at La Malbaie cannot be contested on any of the following grounds:

(a) one of the predecessors, Ludivine Tremblay, the widow of Henri McNicoll, referred to as the vendor in a deed registered on 7 February 1949 under number 32598, had no registered title with respect to the said immovable, since it had been mingled for over 30 years with a contiguous part of lot 417 with respect to which the predecessor of Ludivine Tremblay, Henri McNicoll, had a registered title, namely the deed of partition registered on 21 February 1911 under number 15387;

(b) by a deed registered on 28 April 1948 under number 31874, Damase Lajoie purported to have given to Camille Lajoie part of lot 418, which, on the assumption that the measurements are accurate, would encroach considerably upon the part of lot sold by Omer Fortin and described in a deed registered under number 50922.

Validity of
title

2. The title of Donohue Inc. or of Donohue Malbaie Inc. to those parts of lots 416, 417, 418 and 419 of the cadastre of the parish of La Malbaie which are described in a deed registered at the same registry office on 3 April 1968 under number 50959 cannot be contested on any of the following grounds:

(a) the deed of sale pertaining to the said immovables which were formerly a street, was not approved by the Commission municipale du Québec and the sale price of one dollar may be considered as a lack of valuable consideration or as a municipal grant;

(b) the town of Clermont, referred to as the vendor in a deed registered on 3 April 1968 under number 50959, does not appear to have been transferred parts of the said former street, namely a road reserved by Isidore Neault in a deed registered at the same registry office under number 17661, the northeast strip of land also comprised in the immovable described in a deed registered under number 59880 of which the former owner under a registered title would be Henri McNicoll, referred to as the purchaser in a deed of partition registered on 21 February 1911 under number 15387, and the northeast strip of land also comprised in the immovable described in a deed registered at the same registry office under number 49534 of which the former

owner under a registered title would be Henri McNicoll, referred to as the purchaser under a deed of partition registered under number 15387.

Validity of
title

3. The title of Donohue Inc. or of Donohue Malbaie Inc. to that part of lot 417 of the said cadastre which is described in a deed registered at the same registry office on 12 November 1973 under number 59880 in which the vendor was Edmour Langevin cannot be contested on the ground that one of the predecessors of Edmour Langevin was La Banque Nationale which had acquired it at a judicial sale made on 25 January 1916 following a seizure against Antoine Langevin and that the owner by registered title at the time of the seizure was Wilbrod Desbiens, referred to as the purchaser in a deed registered on 19 January 1912 under number 15649.

Validity of
title

4. The title of Donohue Malbaie Inc. to that part of lot 417 of the said cadastre which is described in a deed registered at the same registry office on 28 April 1967 under number 49628, in which the vendor was Léopold Verreault acting both in his own name and as the tutor of his minor children, Alain, Guy, Marc, Michelle, Yves and Doris Verreault, cannot be contested on any of the following grounds:

(a) Léopold Verreault had no registered title to any part whatsoever of lot 417;

(b) the motion to obtain a judgment recognizing the right of ownership acquired by prescription registered at the same registry office under number 49891 was served on only some of the interested parties.

Validity of
title

5. The title of Donohue Malbaie Inc. to those parts of lot 417 of the said cadastre which are described in deeds registered at the same registry office between 26 April 1967 and 18 November 1967 under numbers 49598, 49599, 49602, 50279 and 50419 in which the vendors were Cécile Tremblay, Madeleine Tremblay, Honoré Tremblay acting with his wife, Marie-Jeanne Larouche, Germain Tremblay and Joseph Cyrias Armand, *dit* René Bergeron, cannot be contested on the ground that the question as to whether the northwest boundary of one of the immovables is lot 418 or another part of lot 417 remains unsettled, that the immovables are situated southeast of each other, that, consequently, the uncertainty as to the location of the said boundary affects all the immovables and that, therefore, the predecessor of Donohue Malbaie Inc., Donohue Inc. (then known as La Compagnie Donohue Limitée), the vendor in a deed registered on 31 December 1985 under number 80170 would have no registered title to some of those immovables whose previous owners by registered title would be

Jules Pradet, the purchaser in a deed registered on 25 April 1911 under number 15438 and Isidore Neault, the purchaser in a deed registered on 19 January 1912 under number 15658.

Validity of
title

6. The title of Donohue Malbaie Inc. to that part of lot 417 of the cadastre which is described in a deed registered at the same registry office under number 49598 cannot be contested on the ground that one of the predecessors of the vendor, Cécile Tremblay, was Dérie Desbiens, the widow of Euchère Tremblay, the vendor in a deed registered on 10 August 1920 under number 18413 or that Euchère Tremblay, the purchaser in a deed registered on 5 November 1912 under number 15921, held a registered title but no will, statement or certificate of payment of the succession duties was ever registered in respect of the succession.

Validity of
title

7. The title of Donohue Inc. to that part of lot 417 of the said cadastre which is described in a deed registered at the same registry office under number 50419 cannot be contested on the ground that the vendor, Joseph Cyrias Armand, *dit* René Bergeron, had acquired the immovable from Aurore Pradet by a deed registered at the same registry office under number 36219, that Aurore Pradet was charged with a substitution under the wills of Jules Pradet and Adélaïde Côté, his spouse, registered under numbers 25471 and 25472, respectively, that by a deed registered at the same registry office under number 36218, persons who declared to be the daughters of Aurore Pradet gave their consent to the sale but that doubt subsists as to whether or not Aurore Pradet had other children or grandchildren called to the benefit of the substitution.

Presumption

8. That part of lot 417 of the cadastre of the parish of La Malbaie purchased by La Compagnie Donohue Limitée under a deed registered on 8 April 1964 under number 49534, is deemed to be the same immovable as that part of the same lot conveyed by Donohue Brothers Inc. under the deed registered on 22 September 1927 under number 21946.

Validity of
title

9. The title of Donohue Inc. or of Donohue Malbaie Inc. to that part of lot 417 which is described in a deed registered at the same registry office under number 21946 cannot be contested on the ground that the person conveying the immovable by exchange under the said deed, Donohue Brothers Limited, held no registered title, the previous owner by registered title being Henri McNicoll, the purchaser in the deed of partition registered on 21 February 1911 under number 15387.

Validity of
title

10. The title of Donohue Inc. or of Donohue Malbaie Inc. to that part of lot 418 which is described in a deed registered at the same registry

office under number 21946 cannot be contested on the ground that Isabelle Thivierge, the widow of Joseph Pedneault, the person conveying the immovable by exchange under the said deed, stated in a declaration of transmission registered on 3 May 1937 under number 25797 that the immovable formed part of the succession of Joseph Pedneault whereas it no longer did.

Presumption

11. That part of lot 417 of the cadastre of the parish of La Malbaie purchased by La Compagnie Donohue Limitée under the deed registered under number 49598 is deemed to be the same immovable as that part of the same lot purchased by Hector Tremblay under the deed registered on 1 October 1940 under number 27349.

Ownership

12. Donohue Inc. is hereby declared to be the owner of that part of lot 417 which is described in the schedule, the previous owner by registered title being Henri McNicoll, the purchaser under the deed of partition registered on 21 February 1911 under number 15387, and since the immovable had been mingled for over 30 years with the immovable referred to in section 3 by the successive owners of the latter immovable.

Rights replaced

13. Any real right cancelled pursuant to this Act is replaced by a personal right exercisable against Donohue Inc. or Donohue Malbaie Inc., as the case may be, or their assigns.

Prescription

14. The personal rights have a value equal to the value of the real rights they replace immediately before 18 December 1987, and they are prescribed on the date on which, but for this Act, the real rights would have been prescribed.

Duties of registrar

15. On payment of fees for an amount equal to the amount exigible for the registration of a judgment ordering the cancellation of the registration of real rights, the registrar of the first registration division of Charlevoix shall write in the margin of each of the deeds registered under numbers 21946, 49534, 49598, 49599, 49602, 49628, 49891, 50279, 50419, 50922, 50959, 59880 and 80170 the words "Confirmed by the Act registered under number... as regards any defect corrected by the said Act".

Registration

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

Coming into force

17. This Act comes into force on 18 December 1987.

SCHEDULE
(Section 12)

DESCRIPTION OF PART OF LOT 417 OF THE CADASTRE
OF THE PARISH OF LA MALBAIE

Part of lot 417 of the cadastre of the parish of La Malbaie belonging to Donohue Inc., bounded on the northeast by part of lot 417 belonging to Donohue Malbaie Inc., on the southwest by part of lot 417 (formerly Donohue street), on the northwest by part of lot 417 (formerly Rousseau street) and on the southwest by part of lot 417 belonging to Donohue Inc.