

common law obligations to grant conveyances; they can do so only in strict conformity with the Civil Procedure Code. The older provisions of the Ordinance No. 4 of 1867 have been repealed.

By the present law a Fiscal cannot grant a conveyance unless he has before him a confirmation of the sale by the Court.

I can find nothing in the Code which gives a Fiscal an exceptional right to convey, without confirmation, if the sale was held before the Code came into operation.

There is a difference in the form of conveyance used under the Code and that used under the Ordinance No. 4 of 1867. There is also, I believe, some difference in the amount of stamp duty now exigible. I do not think it could be contended that a Fiscal now has right to issue a conveyance in the old form, or with the old amount of stamps (in this case it is the new form of conveyance which has been signed).

It seems to me that a Fiscal is so completely the creature of what remains of the Ordinance No. 4 of 1867 and of the Code that he has no right to attempt to transfer property except in strict conformity with these laws.

It is true that Fiscals holding office prior to August, 1890, had more discretion given to them in the matter of giving transfers than their successors since 1890 have had, but the Fiscal who gave the conveyance in 1893 had the lesser rights and powers, and the Fiscal gave (in that year) a conveyance without the confirmation of the Court. I venture to dissent from my brothers, and to express the opinion that he acted in excess of his powers, and that the conveyance is void.

Even under the old law, a Fiscal would, in my opinion, have exceeded his duty if after the lapse of ten years he had given a conveyance. Here twenty-two years had passed and new interests had been created.

WITHERS, J.—

I regret that I am unable to concur with my Lord. Under the Ordinance No. 4 of 1867 it was enacted in the 54th section that no sale should be held "bad on the ground of irregularity or informality, objection to which was not made within thirty days of the sale." If within that time no application was made under section 53 of the Ordinance to set aside the sale, on the ground of a material irregularity in the publishing or conducting it whereby the applicant sustained substantial injury, the sale was good, and could not be impeached. (See *Sillery's case* in 52 L. J., P. C. 7.) In section 56 of the Ordinance it is enacted as follows: "If the Court shall not have disallowed the sale, and the purchaser shall