

exception of this kind by providing that personal property may be mortgaged in the manner prescribed, although the owner lives out of the state. A contract made at the domicile of the owner, and presumably with reference to its laws, is to be distinguished from a contract made in the place where the property to which it relates is located, and with express reference to the laws of that place. Story says, although it is a general rule that a transfer of personal property, valid by the law of the owner's domicile, is valid wherever else the property is situate, it does not follow that a transfer made by the owner according to the law of the place of its actual *situs* would not as completely divest his title, although he might not have his domicile there. A person may doubtless transfer his property according to the law of his domicile wherever the property may be. But if he should sell it in a foreign country where it is situate, according to the laws thereof, the sale is valid. *Sto. Conf. Laws*, s. 384. Lathe mortgaged the horses in question with express reference to the laws of this state. In *Cammell v. Sewell*, 5 H. & N. 728, the master of a vessel wrecked on the coast of Norway had sold a part of the cargo, as by the law of that country he was authorized to do. The goods sold were afterwards sent to England, where they were claimed by their original owner. It was held that the sale of the goods by the authority of the law of the country where they were located was valid against the British owner, although such a sale would be invalid according to the laws of England. The sale was made without the owner's consent, and was nevertheless declared valid by the courts of his domicile. In this case the mortgage was the voluntary contract of the owner made in New Hampshire with express reference to its laws, and the question of validity is raised in its own courts. *Zipcey v. Thompson*, 1 Gray 243. The plaintiff, a creditor of the owner, could acquire a lien, in this state, by mortgage as well as by attachment: his mortgage, valid in this state, was valid in Vermont, and the defendant's subsequent attachment was no better than the title of one who purchases mortgaged property from the mortgagor without the consent of the mortgagor.

Judgment for the plaintiff.

FOSTER, J., did not sit: the others concurred.

WEBSTER v. CLARK.

A memorandum of an agreement to lease for ten years a lot of land, with buildings to be erected thereon by the owner, at an annual rent of six per cent. upon the cost, is not such a memorandum as the statute of

frauds requires of a contract, which provides, in addition, that the buildings to be erected shall be suitable for a carriage manufactory; two stories high, with frames, and brick walls four inches thick.

ASSUMPSIT, upon special counts, for the breach of a contract to lease to the plaintiff for ten years a lot of land, with buildings to be erected thereon by the defendant suitable for a carriage manufactory, at an annual rent of six per cent. upon the cost. The plaintiff introduced parol evidence of the contract alleged, and of an agreement that the buildings should be two stories high, with frames, and brick walls four inches thick. This is the same case as *Webster v. Blodgett*, 59 N. H. 120. The writ was amended by omitting the name of Blodgett as defendant; and the plaintiff offered as evidence of the alleged contract the following memorandum:

“\$150.

Manchester, Aug. 28, 1876.

“Received of Albert B. Webster the sum of one hundred and fifty dollars, in part payment of rent of a lot of land at the south end of Elm street, on the west side of the same, with the buildings thereon, to be erected by William C. Blodgett and Joseph B. Clark, as soon as possible. It is understood that said Webster is to have a lease of said premises from the time they are finished for ten years, paying 6 per cent. on the entire cost and all taxes assessed thereon. Lease to be given as soon as buildings are completed.
Joseph B. Clark.”

Sulloway, Topliff & O'Connor and *Briggs & Huse*, for the plaintiff.

The statute of frauds does not require great formality in the memorandum. The names of the parties and the essential terms of the agreement are sufficient. *Sherburne v. Shaw*, 1 N. H. 157; *Browne Frauds* (4th ed.) 428. Clark agreed to erect buildings of some description on the land in question, and in the absence of plans and specifications it is presumed to have been the intention of the parties that he should erect such buildings as he thought proper, and he cannot complain of this large discretion vested in himself.

Morrison & Clark and *Patten*, for the defendant.

BINGHAM, J. The memorandum required by the statute of frauds must contain all the essential terms of the contract, or a reference to something from which they can be ascertained. *Williams v. Morris*, 95 U. S. 444, 456; *Brown v. Whipple*, 58 N. H. 229, 232; *Browne Frauds*, s. 335. The writing signed by the defendant indicates an agreement to erect buildings of some kind; but it refers to no plans or specifications, nor does it show the use

to which they were to be adapted. The plaintiff claims that they were to be suitable for a carriage manufactory, two stories high, with frames, and brick walls four inches thick. Their adaptation to their purpose was essential. The plaintiff wanted them for the manufacture of carriages. They would be unfit for that purpose if arranged for convenient use as dwelling-houses. The plaintiff's evidence tended to show a verbal agreement as to the height of the buildings, the thickness and material of the walls, and the manner of construction. These conditions would determine the cost, and upon that depended the amount of the rent. They were essential parts of the contract, and cannot be proved by parol evidence.

It is urged that the memorandum shows an agreement by the defendant to construct buildings of some kind, and it is presumed that the parties intended he should erect such buildings as he thought proper. This is refuted by the plaintiff's allegations and evidence. They did not intend to bind him to accept a lease of any buildings the defendant chose to erect, for whatever purpose adapted, and pay an annual rent of six per cent. upon their cost however expensively constructed. If the defendant had undertaken to perform the contract as he understood it, the plaintiff might have refused to accept a lease on the ground that the buildings were not such as he understood were to be erected. This risk the defendant was not bound to assume. The statute was designed to avert such controversies by requiring written evidence.

Judgment for the defendant.

STANLEY, J., did not sit: the others concurred.

RUNNELLS & *a.* *v.* BOSQUET, N. I. & S. Co., *Tr.*, and JAQUET,
Claimant.

An assignment, in writing, under seal, of wages to be earned, is fraudulent and invalid as against the assignor's creditors, if made without consideration, or for the purpose of defeating the claims of creditors, notwithstanding it is accepted by the employer and filed in the town-clerk's office, according to the provisions of Gen. Laws, *c.* 249, *s.* 48, and its fraudulent character may be shown by evidence *abundante*.

FOREIGN ATTACHMENT. The plaintiffs seek to charge the trustee for the wages of the defendant. The claimant demands the wages by virtue of a written assignment under seal, made to him by the defendant and accepted by the trustee, with whom the defendant then had a contract for labor, and filed in the clerk's