

AT OSGOODE HALL

City of Ottawa Wins in Twin City Ice Co. Case—Plaintiff Wins Matto Case—Interesting Mortgage Judgment.

MASTER'S CHAMBERS.

Before Geo. S. Holmsted, K.C., Senior Registrar.

Luczyki v. Spanish River Pulp & P. M. Co. Ltd.—B. H. Ardagh, for defendant, moved to stay action on ground that plaintiff is an alien enemy of the King. O. H. King for plaintiff. Reserved.

McKee v. Kaufman.—N. Somerville, for plaintiff, obtained order to amend writ and for substitutional service of same on Jacob Kaufman by serving his wife.

Lyons v. Brown.—F. S. Mearns, for plaintiff, obtained order for substitutional service of defendant by serving his brother at 5 Lippincott street, and by mailing a copy to that address. Two months for appearance.

Hunt v. Mackey.—C. J. Leonard, for defendant, obtained order on consent dismissing action and discharging lien without prejudice to claims of any other lien-holders if any.

Reinhardt v. Botton.—T. S. Elmore, for plaintiff, moved for final order of foreclosure. Motion to be renewed on further material.

Christie v. Stevens.—W. Barry, for defendant, obtained order on consent dismissing action.

Martin v. Grantham.—R. Wherry, for plaintiff, moved to set aside appearance on ground that affidavit filed with it does not comply with rule 56. J. M. Forgie for defendant. Reserved.

Union Bank v. Makepeace.—Mr. Munoch, for plaintiff, obtained order on consent changing venue from St. Catharines to Hamilton.

Meredith v. Morrison.—G. R. Roach, for plaintiff, obtained order for issue of concurrent writ for service out of jurisdiction on defendant Silver. Time for appearance limited to 20 days.

Martin v. Chalykoff.—M. Macdonald for defendant Chalykoff, and F. C. Carter for defendant Korman, moved to set aside default judgment and execution issued thereon. G. M. Willoughby, for plaintiff, asked enlargement pending negotiations for settlement. Stands for a week.

Bonkedis v. Pappas.—Mr. Harris, for plaintiff, moved for judgment. J. M. Forgie for defendant. Judgment granted for \$677.95. Costs reserved to trial Judge. Defendant to be at liberty to defend as to balance of claim.

Weinberg v. Golden.—A. Cohen, for plaintiff on motion for judgment. W. J. McLarty for defendant. Enlarged one week.

Re Solicitor.—Mr. McFarlane, for B. Rothschild, moved to substitute applicant for town of Cochrane. M. Macdonald for solicitor. Motion stands for a week.

Boyle v. Boyle.—M. Macdonald, for plaintiff on motion for garnishee to pay over. No one for garnishee. It appearing that primary debtor has paid plaintiff's claim, no order made.

Martin v. Korman.—G. M. Willoughby, for plaintiff, moved for order to garnishee to pay over. Mr. Fitzpatrick, for garnishee, asked enlargement. Stands one week.

Larocque v. Feldman.—Mr. Chisholm, for plaintiff, obtained order for service of writ on three defendants by mailing writ addressed to them in care of defendant Joseph Feldman, 106 St. Patrick street.

Lyons v. Schemman.—F. S. Mearns, for plaintiff, obtained order for substitutional service of writ on defendant Julius Kramer by serving his brother on or before 19th July. Defendant to have until 16th September to appear.

Moore v. Miller.—Mr. Bennett, for plaintiff, obtained order for service of writ on defendant by mailing same to his address on or before 19th July, from which date time for appearance to run.

TRIAL COURT.

Before Meredith, C.J.

Matte v. Matte.—J. P. Labelle (Ottawa) for plaintiff. A. C. T. Lewis (Ottawa) for Official Guardian. C. G. O'Brian, K.C., and L. Cote (Ottawa) for executors and for Calixte Matte. Action by legatee to recover \$1,022.75, claimed to be due on a certain mortgage and motion for order construing will of Gabriel Matte.

Judgment: Upon the widow of the testator being with her written consent made a party to this action as co-plaintiff, and to this motion, let it be adjudged that the plaintiff, Rosanna Matte, is under the terms of the will in question in this action and motion entitled to expend the principal money as well as the interest of the mortgage in question for any necessary or reasonable purposes and that the executors of the will are bound to pay over to her so much thereof as may be required by her for any such purpose or to pay out of it her debts incurred for any such purpose. The plaintiff is not entitled to any but the income from the mortgage for her own unrestricted use; the right to expend the principal does not include the right to give it away or to expend it for the purpose of depriving those who may be entitled to the remainder of any share in the testator's bounty. No order as to costs, except that those of the executors, fixed at \$20, are to be paid out of the mortgage, and those of the official guardian, fixed at \$10, which are to be paid by plaintiff and added to her own.

Twin City Ice Co. v. City of Ottawa.—R. A. Pringle, K.C., and L. Cote (Ottawa) for plaintiff. F. B. Proctor (Ottawa) for defendant.

Action for declaration that plaintiff is the owner of all the land between the shore line of Rideau River as it stood in 1856 and the middle of the main channel of Rideau River, and for an order that defendant be ordered to deliver possession of same to plaintiff, and for an injunction and \$1,000 damages.

Judgment: Action dismissed without costs. Stay for thirty days.

Before Britton, J.

Halstead v. Sonahine.—F. J. Hughes, for plaintiffs. A. Cohen for defendants, Morris and Rose Shapiro. Action on a mortgage to recover \$700, and taxes and insurance, and in default of payment for foreclosure.

Judgment: I regret that as I interpret the cases, I am unable to give the Shapros relief, further than to leave it open to the Master to compel the mortgagees to marshal their securities, and if it turns out that the amount accepted by Halstead was less than he should have received, having regard to the value of the land, described in the pleadings as lot No. 1, and the value of Shapiro's land, it should be so reported and the matter may then be further dealt with by the court. The plaintiffs are in difficulty as no evidence was given before me as to value of either property. The third party notice will be struck out, and this judgment will be without prejudice to any claim by the Shapros or either of them against Sonahine, and it will be with the privilege to the Shapros to bring this matter before the Master to be considered by him in taking plaintiff's mortgage account. This is a case which should have been settled between the parties and there is still room for that. The judgment will be with costs as against the Shapros, which I fix at \$100, up to and including the trial, and these costs may be added to plaintiff's claim. No execution will issue for these costs. Judgment for foreclosure and reference and for possession. Subsequent costs and further directions reserved. Twenty-five days' stay.