

The
Ontario Weekly Notes

VOL. IX.

TORONTO, FEBRUARY 18, 1916.

No. 24

APPELLATE DIVISION.

FIRST DIVISIONAL COURT.

FEBRUARY 7TH, 1916.

*COOK v. KOLDOFFSKY.

Mechanics' Liens—Claims of Lien-holders — Claims of Mortgagees—Increased Selling Value—Evidence—Reference — Priorities—Position of Mortgagees as to Portions of Mortgage-moneys — Mechanics and Wage-Earners Lien Act, R.S.O. 1914 ch. 140, secs. 2 (c), 6, 8 (3), 14, 21.

Appeal by E. J. Kaae and James Kaae, mortgagees, from the judgment of an Official Referee in a mechanic's lien proceeding.

The appeal was heard by MEREDITH, C.J.O., GARROW, MACLAREN, MAGEE, and HODGINS, J.J.A.

G. T. Walsh, for the appellants.

W. A. McMaster, for the plaintiff, and S. H. Bradford, K.C., J. H. Campbell, and A. Cohen, for other lien-holders, respondents.

HODGINS, J.A., delivering the judgment of the Court, said that the Referee had found the liens established and had given them priority upon the increased selling value of the land—putting the increase at the exact amount of the liens. The appellants objected to the priority given to the liens; and a counter-attack was made on the appellants' position as to some of the mortgage-moneys.

The evidence satisfied the Court that the appellants had actual notice of the liens when their four mortgages were registered and the moneys advanced thereunder.

The appellant E. J. Kaae retained out of the moneys secured by his two mortgages the sum of \$1,618.13 for principal and interest due under an agreement whereby he sold the land

*This case and all others so marked to be reported in the Ontario Law Reports.