

that he took, and that the Crown, evidently under the same impression that the appellant was under, that he was the owner in fee of the land, granted the water lot to him.

We think that, under these circumstances, especially as nothing has been done by the children to assert any title to the water lot, and advantage has not been taken of the delay (now nearly a year) since our former judgment was given, to do so, the proper view is that the Crown intended to grant the water lot to the appellant, and that he is, therefore, not a trustee for the remaindermen of the remainder in fee after his life estate for his children. Of course, this decision will in no way bind the children in the event of their seeking hereafter to establish their right to it, but between the parties we determine that it has not been established that the appellant is a trustee of the remainder in fee for his children; and, therefore, specific performance in respect of the water lot will be adjudged.

As to costs, we will not disturb the disposition made by the learned trial Judge of the costs of the action, but we think there should be no costs of the appeal to either party.

---

NOVEMBER 30TH, 1914.

\*JOHN MACDONALD & CO. LIMITED v. TEW.

*Land Titles Act—Mortgage—Inability to Register—Deed of Assignment for Benefit of Creditors—Registration of—Priorities—R.S.O. 1914 ch. 126, secs. 45, 115—Form of Judgment—Rectification of Record—Costs.*

Appeal by the defendant from the judgment of WINCHESTER, Senior Judge of the County Court of the County of York, in favour of the plaintiffs in an action in that Court.

The plaintiffs by their statement of claim alleged that in 1911 S. A. Campbell made an assignment for the benefit of her creditors to the defendant, who thereupon registered the assignment against land owned by her, which had been brought under the Land Titles Act; that on the 10th November, 1910, the plaintiffs, being creditors, obtained from her a mortgage for \$600 on this lot; but, as it was in the form given by the Short Forms of Mortgages Act, they were unable to record it; that, after some

\*To be reported in the Ontario Law Reports.