

allowed now to recede from it. It is no hardship for the plaintiff to give up the land on being paid the mortgage and all his outlay.

This direction will be without costs to either party. The endorsement as made at the time on the record will stand.

HON. SIR G. FALCONBRIDGE, C.J.K.B. DEC. 29TH, 1913.

TUCKER v. TITUS.

5 O. W. N. 651.

*Mortgage — Exercise of Power of Sale — Irregularity — Notice of Sale — Amount Due not Specified — Advertising within One Month — Damages — Injunction — Costs.*

FALCONBRIDGE, C.J.K.B., *held*, that a mortgagee's proceedings under his power of sale were irregular where the notice of sale did not state the exact amount due, and where the property was advertised for sale within one month of the giving of the notice.

Action for damages for wrongfully advertising the plaintiff's property for sale under the power of sale in a mortgage and for a declaration and injunction.

Tried at Belleville.

E. Gus Porter, K.C., for plaintiff.

A. Abbott (Trenton), for defendant.

HON. SIR GLENHOLME FALCONBRIDGE, C.J.K.B.:—Defendant's proceedings in endeavouring to exercise power of sale under the mortgage are irregular in two respects.

1st. The notice of exercising the power of sale does not state the amounts claimed to be due for principal, interest and costs respectively, as prescribed by 10 Edw. VII. ch. 51, sec. 27.

2nd. Defendant proceeded before the expiration of the month to put up posters and to advertise the sale in a newspaper.

This is a "further proceeding" under the statute.

*Gibbons v. McDougall* (1879), 26 Gr. 214; *Smith v. Brown* (1890), 20 O. R. 165.

The present provision is sec. 28 of the statute cited above.