

Lodge to survey his land, on which survey he was found to occupy but 102 acres, in place of 150 acres, contained in his lease. Until Nov. 1829, Mr. Douglas had regularly paid his rent of £7 10s. per year, for 150 acres of land, and then refused to pay until compensation was made to him for what he had overpaid, with interest. Douglas paid the costs of two distresses. Mrs. Townshend commenced a summary action for one year's rent, stated to be due in 1829, and also made a distraint upon him for the same rent, which Mr. Douglas replevied. In 1832, an action was commenced to recover rent, from Nov. 1829, to Nov. 1832. A set off on the trial of the summary action for rent, of one year, due on the 1st Nov. 1829, was made by Douglas, that Mrs. Townshend had not fulfilled the condition precedent, to survey his land, and give him the quantity contained in his lease, or to allow him for what he had overpaid. The Court decided that the set off could not be allowed, and directed that a verdict for the full amount claimed by Mrs. Townshend should be entered—to the best of his recollection—and that the tenant was absolutely bound by his covenant to pay the rent, and that he had no remedy in a Court of Law. The action of Replevin is still pending, having been staid by the injunction issued out of the Court of Chancery, in June, 1834. Before injunction had been issued, Mr. Wiggins brought an action of ejectment against Mr. Douglas, in 1833—this action was ready for trial before injunction had been issued. It is still pending—notice of trial was given therein for last Hilary Term. The Injunction staid all proceedings in this action until it was dissolved. Several attempts had been made to have the Injunction dissolved—one attempt, on July 15, 1831; another on July 19, 1834; another on 27th Oct. 1836; another on 21st Nov. 1839; and the last on 27th Nov. 1839—all of which proved fruitless, until the last, when an order was made, on December 6, 1839, granting it to be dissolved.

Q. In the case between Flora Townshend and her Assign, A. V. G. Wiggins, of which the heads are above detailed, have you been Attorney for Mr. Douglas?

A. Since the commencing of the case, I have.

Q. Have you endeavoured to get compensation or set off to Mr. Douglas, on account of his having, for 24 years, paid rent for 150 acres of land, when in reality, by survey, he has only 102?

A. I stated to the Court that such claim was a sufficient defence to the action.

Q. And what was the result?

A. Judgment was given for the plaintiff, Mrs. Townshend, in the only case tried at law.

Q. Have you tried to obtain redress for Mr. Douglas in the Court of Chancery?

A. Yes; by every means in my power, as I believe.

Q. When did the legal proceedings commence?

A. About November, 1829, and staid by injunction in equity, in June, 1834.

Q. How did the proceedings in Chancery terminate, or what was the last proceeding?

A. The injunction was dissolved, with costs, on the sixth December last.

Q. Then Mr. Douglas has no redress as yet?

A. None whatever, but the reverse.

Q. And although he has only 102 acres, they can distrain on him for the rent of 150 acres?

A. I conceive so.

Q. And has he had to pay all the expense—both his own and that of the opposite party?

A. He is now liable to pay all the law costs.

Q. If a person lease land for nine hundred and ninety-nine years, when the Deed or Will giving power to lease prohibits such person giving a lease for more than forty-two years, can the person giving such lease be sued for damages?

A. No, not at law, before the expiry of the forty-two years, or eviction; but the lessee would immediately have remedy in equity, by way of compensation or avoiding the contract, and the costs of dissolving the injunction.

Q. Are you Attorney for Alexander Dingwell?

A. Yes.

Q. Is his case of the same nature as that of Mr. Douglas's, as regards his grounds of compensation?

A. Yes—he has only 130 acres, in place of 200, to which he is entitled, and for which he is liable to pay £12 10s. yearly rent; and he paid £45 in value on entering upon the premises.

Q. What do you judge is meant by the term “a little more or less,” used in Deeds and Leases, as thus—“containing 100 acres, little more or less?”

A. Not exceeding five acres either way; and some judges have been of opinion that it should not exceed one acre either way.

CHARLES YOUNG, Esq. *called in and examined.*

Since I have been retained for Mr. Douglas in the Chancery case, and have, in conjunction with Mr. Binns, conducted the case, I believe that every thing has been done as is stated in Mr. Binns's answers to the foregoing queries, and I concur with him in those answers.

JAMES H. PETERS, Esq. Solicitor General, *called in and examined.*

Q. How long have you been resident in this Island?

A. About eighteen months.

Q. Are you Solicitor General?

A. I am.

Q. When were you appointed?

A. In 1838.

Q. What consideration was given to the late Solicitor General when he resigned, and by whom was that consideration given?

A. I gave none. I don't know who gave.