

The plaintiff thereupon gave a bond to the defendants reciting that they claimed from her \$1,347.77 for local improvement taxes (and percentages thereon) for 1892, 1893, 1894, 1896, and 1897, for the opening of Sunnyside avenue, and also \$530.63 for like taxes for 1895 and 1898 and interest thereon, and that the plaintiff had, since the taxes for 1892 became payable, asserted that the city had no right to assess such taxes upon her property extending from Sunnyside avenue to Indian road, some portions of which were mortgaged, and that the collector had no right to seize any of her goods for such taxes, and that her lands and goods were not liable therefor, and that it had been arranged that plaintiff should bring an action against defendants to test the right to collect such taxes either by distress or action or in any other way, or to charge them upon the land, the question of the taxes for the two different periods being treated as different issues, which bond contained a condition for making the same void if plaintiff should well and truly prosecute the action and pay whatever might be found due to defendants in respect to the taxes, and costs. The plaintiff agreed not to make any objection on account of the defendants not having included the taxes for 1895 and 1898 in the distress made.

The plaintiff had resided on the land ever since she became the owner of it, in 1886, and had always ample goods on the land out of which the amount of the taxes could have been levied by distress in each year.

The appeal was heard by ARMOUR, C.J.O., OSLER, MACLENNAN, MOSS, LISTER, JJ.A.

W. Cassels, K.C., and W. H. Lockhart Gordon, for appellant, plaintiff.

E. D. Armour, K.C., and W. C. Chisholm, for defendants the city corporation.

H. C. Fowler, for defendant Duncan.

ARMOUR, C.J.O.—The provisions of the law governing the proceedings taken in 1892 are to be found in 53 Vict. ch. 50, as amended by 54 Vict. ch. 42.

By-law 3012 was intended to be passed under the authority of sec. 612 (setting it out, and also secs. 613 and 618 (1) and (2)).

No notice was ever given as required by sec. 618 (1) and (2), and no Court of Revision was held, and none of the