plaintiff sues for it in the Division Court, and the defendant disputes jurisdiction, alleging that the title to land will come in question. Upon the facts disclosed upon this application, the title to land does not, nor is there any reason why it should, come in question.

The plaintiff did not refuse to accept the property by reason of any defect in title.

Re Crawford v. Seney, 17 O.R. 74, seems in point. In an application for prohibition it is not what the ingenuity of counsel can suggest as a defence in order to succeed at the trial, but, as was said by Armour, C.J., in the case cited, "In prohibition we have to be satisfied that the title really comes in question, before we can prohibit." See also Re Waring v. Town of Picton, 2 O.W.R. 92, and Re Moberly v. Town of Collingwood, 25 O.R. 625.

As counsel for the defendant produced a decision of the learned County Court Judge at variance with his decision in the present case, there should be no costs of the present application. Motion dismissed without costs.

BRITTON, J. FEBRUARY 14TH, 1914

RE GOLDBERG AND GROSSBERG.

Mortgage—Foreclosure—Parties to Action—Executors of Deceased Mortgagor—Will—Power to Sell Land—Beneficiaries not Joined—Rule 74—Title to Land—Application under Vendors and Purchasers Act—Validity of Title Derived through Foreclosure.

Application by the vendor, under the Vendors and Purchasers Act, for an order declaring that the objection of the purchaser to the title of the vendor to the land forming the subject of an agreement for sale and purchase—viz., that the children of one Julius Breterwitz were not joined as defendants in foreclosure proceedings taken by the Hamilton Mutual Building Society, after the death of Julius Breterwitz, upon a mortgage made by him in his lifetime—had been satisfactorily answered by the vendor, and was not a valid objection to the title, and that a good title had been shewn in accordance with the conditions of sale.