

redeem. The plaintiff in the present action is properly made a party to it, because under the agreement between him and the mortgagees it would be improper for them to enter into such a lease without his express authority.

FALCONBRIDGE, C.J.:—I concur.

BRITTON, J.:—I think a mortgagee in possession would be an "owner" whose goods would be liable to seizure for taxes.

A person who goes into possession under an absolute agreement with the owner of the equity of redemption, or with the mortgagee, to purchase, would, in my opinion, be an "owner" within the meaning, and for the purposes of, cl. 3 of sub-sec. (1) of sec. 135 of the Assessment Act, R. S. O. ch. 224.

Appeal dismissed with costs; BRITTON, J., diss.

J. J. Warren, Toronto, solicitor for plaintiff.

T. Herbert Lennox, Toronto, solicitor for defendant.

BOYD, C.

MAY 19TH, 1902.

WEEKLY COURT.

*Re C. P. R. CO. AND CITY OF TORONTO*

*Landlord and Tenant—Agreement for Lease—Covenants—Taxes—Local Improvement Rate—Re-entry—Repair—Interest—Exemption—R. S. O. ch. 224, sec. 7, sub-sec. 7.*

Appeal by the company from the report of Mr. Cartwright, an official referee, upon a reference to him to settle the terms of a lease of lands by the city corporation to the company.

E. D. Armour, K.C., and Angus MacMurchy, for the company.

C. Robinson, K.C., and J. S. Fullerton, K.C., for the corporation.

BOYD, C.:—As to the covenant to pay taxes, the company, having possession of the property under lease from the city "for successive terms of 50 years each during all time to come," are for all practical purposes, and within the meaning of the Assessment Act, the owners, and as such liable for taxes without recourse to the owner in fee. But, apart