

WEEKLY COURT.

CHITTICK v. LOWERY.

Vendor and Purchaser—Acquisition of Equity of Redemption by Execution Creditor Purchasing at Sale under Execution—Sale of Equity to Mortgagor—Release of all Claims—Effect of—Short Forms Act—Unsatisfied Judgment against Mortgagor—Execution Subsequently Placed in Sheriff's Hands—Subsisting Incumbrance.

Appeal by one Stovel, made a party in the Master's office, from a report of the local Master at Barrie disallowing the claim of plaintiff as a subsequent incumbrancer by virtue of an assignment of a judgment and execution. Under an execution in the case of Hawthorn v. Lowery, the sheriff sold the equity of redemption of Lowery in mortgaged lands on 14th August, 1896, and a conveyance thereof was made by the sheriff to the purchaser, McGibbon, on 25th August, 1896, for \$100. McGibbon was then the assignee of the judgment, and as purchaser he held this interest in the land till 23rd September, 1897, when he sold it to Lowery, the mortgagor, for \$50, and made to him the usual short form conveyance under R. S. O. ch. 124. The moneys realized under sale were not sufficient to satisfy the judgment, and the writ was returned by the sheriff for renewal on 2nd August, 1899, but was not then renewed. McGibbon assigned the judgment (so paid in part) on 22nd April, 1902, to Stovel, and thereafter an alias writ of fi. fa. lands was issued on 3rd July, 1902, and placed in the hands of the sheriff, and in respect of this execution Hawthorn and Stovel were made parties. The Master held that the release of all claims in the short form deed from McGibbon to Lowery operated to discharge the land from this judgment and execution.

J. Bicknell, K.C., for appellant.

C. E. Hewson, K.C., for defendant Lowery and subsequent mortgagees.

D. L. McCarthy, for plaintiff.

BOYD, C.—When the equity of redemption was sold and conveyed by the sheriff, the judgment was satisfied pro tanto, and the equitable interest in the mortgaged premises became vested in the execution and judgment creditor as owner. The land was no longer affected by that judgment and execution,