

for any portion of the \$100 counsel fee not actually paid out to a counsel who is not a member of the firm of the solicitors for the plaintiff; and, upon this being done, the appeal will be allowed, and the order will be that the defendant forthwith pay to the plaintiff's solicitors \$199.37 as her disbursements; if the undertaking is not given, the order will be for payment of \$139.37. Costs of the appeal to be costs to the plaintiff in the cause.

BOYD, C.

NOVEMBER 5TH, 1915.

WILLSON v. THOMSON.

*Mortgage—Foreclosure — Final Order — Judgment of Supreme Court of Canada—Proof of Default—Entry of Judgment in Supreme Court of Ontario—Practice—Issue of Order—Mortgagors and Purchasers Relief Act.*

Motion by the plaintiff for judgment of foreclosure.

See Willson v. Thomson, 30 O.L.R. 502, 31 O.L.R. 471; Thomson v. Willson, 51 S.C.R. 307.

The motion was heard in the Weekly Court.

K. Lennox, for the plaintiff.

T. Hislop, for the defendants.

THE CHANCELLOR said that the case was carried by the defendants to the Supreme Court of Canada, and that Court on the 15th March, 1915, ordered that the amount required for redemption should be paid into the head office of the Canadian Bank of Commerce on the 15th October, 1915. That order was forthwith binding on the defendant, and default was made in payment. Steps were not taken to procure a certificate of that judgment for the purpose of its enforcement in this Court till the 26th October, and that certificate was duly entered in the judgment-book of this Court on the 29th October, and thereupon it became enforceable: Rule 524.

This motion to foreclose was prematurely made and leave was given by the Court to enter the judgment. On the application now made, the cause had been restored to this Court, and the certificate of the bank shewed default. The affidavits filed before the entry of the Supreme Court judgment were irregular and could not be read, but they were not required, as the defendants appeared, and the default was manifest.