

The mortgages in question were two, viz., (1) dated March 1st, 1885, from Peter Valley to the Hamilton Provident & Loan Society to secure repayment of \$1,900 and interest at 7 per cent. as therein provided, and (2) a mortgage from the same to the same dated 1st February, 1886, to secure repayment of \$150 and interest at 7 per cent as therein provided and these mortgages covered several parcels of land.

By indenture dated 2nd January, 1908, the said society assigned the said mortgages to the plaintiffs for a named consideration of \$824.75, said to be the amount then owing.

The writ in this action was issued on the 10th March, 1908. In the statement of claim filed on the 4th December, 1909, the plaintiffs claimed that there was then due under and by virtue of the said mortgages for principal money, interest, insurance premiums and other expenses, the sum of \$631 and stated that there had not been any occupation of the mortgaged premises or any part thereof.

Originally some thirty defendants were made parties as the original mortgagor had in the meantime sold his equity of redemption in parts of the lands to various persons and the applicants herein Victoria McKillican and David A. Smith were two of said defendants.

In their statement of defence these defendants asserted that the mortgages became due and payable respectively on the 1st March, 1886, and 1st February, 1887, and the then holders thereof were entitled to enforce the same if they had so desired. They asserted that they had been in actual and undisturbed possession of the portions of the lands and premises in question owned and occupied by them since the beginning of March, 1887, and had acquired a title as against the plaintiffs. They also asserted that the Hamilton Provident & Loan Society had received sufficient to satisfy and discharge the full amount due upon the mortgages and that there was nothing due and owing thereon to the plaintiffs.

A motion for judgment was made and judgment granted on the 25th February, 1911, which reads in part as follows:

"Upon motion for judgment made this day unto this Court by counsel for the plaintiffs in the presence of counsel for the defendants David A. Smith and Victoria McKillican and for the defendant Elizabeth Lizette, no one appearing for the defendants Robert A. Pringle, Alexander Munroe, John Lalonde, Maxime L. Lizette, Alexander Villeneuve,