

the answer put in by the city, which set up the validity of the sale, and showed that it would have been useless for the plaintiff to have applied to the council as suggested.

It was also urged that the plaintiff had a sufficient remedy at law by redeeming the land and then suing the city to recover back the money, but his lordship held that such a remedy would not be adequate under the circumstances.

The plaintiff had received notices of the assessments from year to year, and had never appealed herefrom; and although they may have in some respects described her land inaccurately, it was held that this was no ground for an injunction, whatever might be the effect at law. The description of the land in the advertisement of the sale was somewhat different from the description in the assessment notices, and it was admitted that the description in the advertisement set out correctly the plaintiff's land. At the trial a good deal of evidence was given for the purpose of showing that the north and south boundaries of the property in question as described were entirely different from the boundaries as laid out on the ground and occupied by the buildings; but his lordship, having reviewed the evidence, thought it was not sufficient to show that the boundaries were different as alleged, the onus being upon the plaintiff to prove this. The only proved discrepancy in the boundaries was on the eastern side of the property, where a slight error had evidently taken place; but the difference was at most three feet, and was unimportant otherwise.

*Held*, that if the owner had conveyed the land by the description in the assessment rolls, the conveyance would have been effectual to transfer all of the plaintiff's land excepting a little on the eastern side, and that the assessment must be equally effectual to charge all the land which the court could see was clearly included in the description. The plaintiff had no absolute right to an injunction, and it should not be granted unless the conveyance to be given by the city would be inoperative to transfer the land assessed, and his lordship came to the conclusion that the conveyance would operate to transfer the land assessed, and therefore that the injunction should not be granted. The statement in *Blackwell on Tax Titles*, ss. 518 and 519: "When part of the land sold is liable to sale and the residue is not, the sale is *void in toto*";

*Held*, not to apply to a case like the present, and the two cases relied upon for the proposition, namely, *Hagel v. Foster*, 13 Pick 492, and *Moulton v. Blaisdell*, 24 M. 283, distinguished.

Bill dismissed with costs.

*Ewart, Q.C., and Phippen* for the plaintiff.

*Howell, Q.C., and Isaac Campbell, Q.C.*, for the County of Winnipeg.

*Aikins, Q.C.*, for the mortgagees.

TAYLOR, J.]

[May 19

MACDONALD v. GREAT NORTH-WEST CENTRAL R.W. CO.

*Sheriff's interpleader—Delay in application for—Defending action by claimant instead of applying for interpleader at once.*

Appeal from the order of the referee dismissing a summons taken out by the sheriff of the Western Judicial District to add one Delap as a party to certain interpleader proceedings.