

An appeal by the plaintiff from a judgment of HON. MR. JUSTICE RIDDELL, dated 21st October, 1912, dismissing an action to set aside a tax sale of certain lots by the city of Toronto, and for an injunction restraining the defendant from selling or otherwise disposing of said lots.

The appeal to Divisional Court was heard by HON. SIR JOHN BOYD, C., HON. MR. JUSTICE LATCHFORD and HON. MR. JUSTICE KELLY.

J. M. Ferguson, for the appellant.

A. J. Anderson, for the respondent.

HON. SIR JOHN BOYD, C.:—The scheme of the Municipal and Assessment Acts contemplates and provides for a continuity of official life in the finance department. This scheme provides for the raising of money for municipal purposes and is administered by various officers; treasurer, collector, assessor and the like; each has his own functions yet all are to work together for one and same end. Pains is taken in the Acts to provide for the proper discharge of the fundamental work of assessment and all of its incidents to make sure of the identification of the ratepayer by name and address. This is to safeguard him in regard to all notices and demands requiring personal service or in the case of a non-resident service by post and registered letter. As to non-residents they can notify the department of their post office address and this is to be the continuing place of address till a change is made by the person himself. The address so communicated to the department is applicable to and is meant to apply to all stages of the proceedings in the imposing and collection of taxes even till the ultimate act comes when the lands are being disposed of to pay the arrears. This preamble is applicable to the case in hand.

This land was sold for taxes under the special power given by the statute of 1898, 61 Vict. ch. 55, sec. 16, by which lands of non-residents in the town of Toronto Junction might be sold if the taxes were in arrear for twelve months; as against the three years' grace given by the general Assessment Act.

The plaintiff had bought the lands in 1892 and had paid taxes for 15 years but made default in 1906 and 1907 and the sale took place in November, 1908. He did not know