

mortgagee, over and above the repayment of his principal and interest, is void in equity, but, that on the contrary, it is only such collateral agreements as have the effect of unduly clogging the right to redeem, and that as neither the stipulation for the continuance of the loan for a specified period of five years, nor the covenant for the purchase of liquor from the plaintiff, were open to objection as clogging the right of redemption, they were valid and binding on the mortgagors.

DECLARATORY JUDGMENT — INJUNCTION TO RESTRAIN PROCEEDINGS BEFORE JUSTICE UNDER A STATUTE.

In *Grand Junction Waterworks Co. v. Hampton* (1898) 2 Ch. 331, the plaintiffs were proposing to erect an engine house, and the defendants, a municipal corporation, objected to the proposed erection as being a breach of a statute, owing to the building extending beyond the general alignment of the street on which it was erected; and they commenced proceedings before justices, and the plaintiffs were found guilty, and were fined; the plaintiffs thereupon applied to the justices to state a case with a view to taking the matter before a Divisional Court. The plaintiffs had previously commenced the present action, claiming a declaration of their right to erect the building in question. The defendants submitted as a question of law that under the circumstances the action could not be maintained, and the case came on for hearing on this point. Stirling, J., after a careful review of the authorities come to the conclusion that even if the court had jurisdiction to grant an injunction to restrain proceedings before justices, it ought to be exercised with the greatest possible caution; and where the legislature has pointed out a mode of proceeding before a magistrate it is not open, as a general rule, for another court to stop that proceeding by injunction, and in contests between local authorities and private owners, he was of opinion that that rule ought to be adhered to somewhat strictly; and in view of the circumstances of this case it was one in which the court ought not to interfere by injunction, or by making any declaration of right, but ought to leave the matter to be disposed of by the tribunal pointed out by the statute, and the action was dismissed with costs.