

Co., 4 A.C. 391, followed; and see Annotation at end of this case.

H. P. Blackwood, for petitioner. C. P. Wilson, K.C., for district registrar.

ANNOTATION ON ABOVE SUBJECT.

The various Land Titles Acts prescribe the manner for mortgaging land registered thereunder by the execution of a memorandum of charge which in some provinces takes effect as a security only, and not as a transfer of the title to the encumbered land: see 6 Edw. VII. (Alta.) ch. 24, secs. 60, 61; 2 Geo. V. (B.C.) ch. 15, sec. 7; R.S.M. 1902, ch. 148, secs. 99, 100; 1 Geo. V. (Ont.) ch. 23, sec. 30; R.S.S. 1909, ch. 41, secs. 87, 91. However, the statutes of British Columbia and Ontario are silent as to the effect of such a mortgage as a transfer of the mortgagor's title.

In all of the provinces with the exception of Manitoba, jurisdiction is expressly conferred on some Court, in addition to cumulative remedies in the land titles office, in respect to proceedings to enforce payment of moneys secured by mortgage or encumbrances under the Land Titles Acts, or to enforce observance of covenants, agreements or stipulations therein, or for the sale of the encumbered lands, or to foreclose the estate or claim of any person in or upon the same, or to redeem or discharge any land from any such mortgage or encumbrance. Thus, in Saskatchewan the Supreme Court has jurisdiction (R.S.S. 1909, ch. 41, sec. 93); while in the North-West Territory and Yukon it is conferred on stipendiary magistrates (R.S.C. 1906, ch. 110, sec. 99). In Ontario it is provided by 1 Geo. V. ch. 28, sec. 34, that, subject to any entry to the contrary on the register, the registered owner of the registered charge may enforce it by foreclosure or sale, in the same manner and under the same circumstances in and under which he might enforce it if the land had been transferred to him by way of mortgage subject to a proviso for redemption. In Alberta, by virtue of the Real Property Act, 6 Edw. VII. ch. 24, sec. 62, proceedings for the foreclosure of such mortgages are to be taken in the Supreme Court of the province; but it has been held that under such section a Master of the Supreme Court does not have jurisdiction to make a foreclosing or vesting order: *Re Land Titles Act* (Alta.), 11 D.L.R. 190. Where land is sold in satisfaction of a mortgage pursuant to a decree of a Court providing that on confirmation of the sale by a Judge, the title to the encumbered land shall vest in the purchaser, the latter, on confirmation of the sale, is entitled to be forthwith registered as owner of the land: *Canadian Pacific R. Co. v. Mang*, 1 Sask. L.R. 219.

But the Manitoba Real Property Act, R.S.M. 1902, ch. 148, differs from those of other provinces by providing, like those of Australia, a distinct and separate proceeding for the foreclosure of mortgages made under the Act, without conferring jurisdiction on any Court therefor. Thus, secs. 113 and 114 of the Act provide for a proceeding in the land titles office before the registrar, for the foreclosing of such mortgages and the vesting of title in