

in remainder or reversion, and the mortgage was not of the fee, but of the estate in remainder; and that of which the mortgagee must be in possession is not the land itself, but the estate in remainder, which is covered by the security. "Possession" of this estate must mean something widely different from possession of the land itself.

Reference to *Kirby v. Cowderoy*, [1912] A.C. 599.

Here, in the writ of summons the plaintiff claimed possession, and by the judgment the defendants were directed to give possession, and the mortgagee had ever since regarded the reversionary interest as his, and had done all that an owner could do; and, after his death, those claiming under him had dealt with the reversion as their own. There was as much possession as the nature of the estate permitted.

The mortgagor had acquiesced in the situation, submitted to the foreclosure and the judgment for possession, and had never done anything which an owner might be expected to do.

When once the Court recognised that physical occupation of land and possession under the statute are two quite different things, it in effect established that, when there can be no physical occupation, possession in the eye of the law must follow the legal estate; as soon as the mortgage becomes in default and the mortgagee becomes entitled to possession, he must be deemed to be in possession, unless the contrary can be shewn.

In the alternative, if, for any reason, the statute should not be regarded as applicable, this application is in the nature of a proceeding for redemption; Equity should follow the law and hold that the laches of the mortgagor for a period exceeding the statutory limit precludes the granting of any relief.

Motion dismissed with costs.

RE JOHNSTON—FALCONBRIDGE, C.J.K.B.—MARCH 17.

Will—Construction—Bequest to Widow—"Full Dower Rights in all my Property"—Non-technical Use of "Dower"—Absolute Gift of one-third of Whole Estate.]—Motion by the administrators with the will annexed of the estate of John Johnston, deceased, for an order determining a question as to the construction of the will. The motion was heard in the Weekly Court at Toronto. The learned Chief Justice, in a written judgment, said that the testator had no real estate when he made the will. He meant to give his wife something besides the \$1,000 bequeathed to her. Following