

While I allow the appeal, there is, I think, ample ground for refusing to give the shareholders costs. The liquidator was justified in his attempt to place the shareholders upon the list, and should be allowed his costs out of the estate.

[Leave to appeal was granted on the 3rd March, 1913.]

MIDDLETON, J.

FEBRUARY 25TH, 1913.

\*CARTWRIGHT v. CITY OF TORONTO.

*Assessment and Taxes—Tax Sale—Mortgage—Part Discharge—Consideration—Agreement with City Corporation—Failure to Prove—Foreclosure—Arrears of Taxes—Land Purchased by City Corporation at Sale—Validating Statute—Defective Description in Assessment Roll—Notice to Owner—Omission to Give—Curative Effect of Statute—Failure to Redeem within Time Limited—Position of Municipality as Purchaser—Absolute Owner.*

Action to set aside a tax sale of certain lands in the city of Toronto, which were by deed of the 1st October, 1902, conveyed to the city corporation in pursuance of a sale for taxes held on the 24th April, 1901. The plaintiff, in the alternative, asked for other relief.

George Bell, K.C., for the plaintiff.

E. D. Armour, K.C., and C. M. Colquhoun, for the defendants.

MIDDLETON, J.:—The lands in question, and other lands, were mortgaged by Jane Prittie, then owner, to the late Sir Richard Cartwright, on the 13th February, 1892, for \$43,000. Prior to the making of this mortgage, the city corporation had entered upon these lands and constructed through them a main sewer known as the Garrison creek sewer; and the compensation payable to the mortgagor was the subject of a reference to the County Court Judge.

As collateral to the mortgage, the mortgagor assigned \$20,000, part of the moneys payable as damages; an award having theretofore been made for \$35,000, which was, upon an appeal, after the date of the mortgage, referred back for re-consideration.

\*To be reported in the Ontario Law Reports.