

NOVEMBER 14TH, 1904.

C.A.

FARMERS' LOAN AND SAVINGS CO. v. PATCHETT.

Covenant — Assignment of Mortgage — Assignor's Covenant—Release of Part of Premises—Principal and Surety—Discharge.

Appeal by plaintiffs from judgment of MEREDITH, C.J., 2 O. W. R. 702, 6 O. L. R. 255, dismissing, as against defendant Coleman, an action on a covenant for payment contained in an assignment of mortgage by defendant Coleman to plaintiffs.

The appeal was heard by OSLER, MACLENNAN, GARROW, and MACLAREN, JJ.A.

W. M. Douglas, K.C., for appellants.

W. H. Irving, for defendant Coleman.

OSLER and GARROW, JJ.A., gave written reasons for judgment sustaining the appeal.

MACLENNAN, J.A., gave written reasons for dismissing the appeal, in which MACLAREN, J.A., concurred.

The Court being thus divided, the appeal was dismissed with costs.

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C.A.

McFADDEN v. BRANDON.

Limitation of Actions—Covenant in Mortgage—Acceleration of Time for Payment of Principal—Default of Payment of Interest—Commencement of Statutory Period—Potential Relief from Consequences of Default.

Appeal by plaintiff from judgment of STREET, J., 2 O. W. R. 623, 6 O. L. R. 247, dismissing the action, which was brought to recover the principal and interest due under a covenant in a mortgage made in 1879. STREET, J., held that the effect of the usual statutory provision contained in a mortgage, that in default of payment of the interest thereby secured, the principal should become payable, was to make