

means of mitigating its loss which it was not only the appellant's right but its duty to do.

I would reverse the judgment of the learned Chief Justice, and substitute for it a judgment for the appellant for the damages sustained by reason of the respondent's breach of the agreement, with a reference to the Master in Ordinary to ascertain the amount of the damages; and the respondent should pay the costs of the action and of the appeal.

MARCH 9TH, 1914.

*TOWN OF STURGEON FALLS v. IMPERIAL LAND CO.

Assessment and Taxes—Lien on Land for Unpaid Taxes—Action to Enforce by Sale—Assessment Act, 1904, sec. 89—Acceptance of Promissory Notes for Taxes—Abandonment of Other Remedies—Validity of Assessments—Non-compliance with sec. 22 of Act—Other Provisions of Act—10 Edw. VII. ch. 88, sec. 23 — Description of Properties — Registered Plans—Subdivisions—Evidence—Judgment—Costs.

Appeal by the plaintiffs from the judgment of KELLY, J., 4 O.W.N. 178.

The appeal was heard by MEREDITH, C.J.O., MACLAREN, MAGEE, and HODGINS, J.J.A.

G. H. Kilmer, K.C., for the appellants.

S. H. Bradford, K.C., for the defendants the Imperial Land Company and Clarkson, liquidator of that company, respondents.

H. W. Mickle and A. D. Armour, for the defendants the Trusts and Guarantee Company, respondents.

The judgment of the Court was delivered by HODGINS, J.A.:—The rights given by sec. 89 of the Assessment Act, 1904, enable the plaintiffs to invoke the aid of the Court to enforce the lien given by that statute. The Court is not called on to declare the lien, but to assist the plaintiffs to realise it by decreeing a sale.

If the plaintiffs established their right to judgment for the taxes, their special lien, created by statute, can be made effective

*To be reported in the Ontario Law Reports.