

has been lodged, and will do so, as a matter of course, where there has been no wanton delay in giving the security within the time allowed by the County Court judge.

Until the proceedings in the court below have been sent up to the Court of Appeal by the County Court judge, as directed by s. 51 of the County Courts Act, the appeal is not lodged, and the court can neither dismiss it nor extend the time for setting it down for hearing.

Paul v. Rutledge, ante, 323, commented on.

A. C. Macdonell for the appellant.

MacGregor for the respondent.

MANITOBA.

COURT OF QUEEN'S BENCH.

KILLAM, J.]

[May 7.

SCHULTZ v. ALLOWAY.

Sale of land for taxes—Assessment—Injunction to restrain conveyance after sale for taxes.

The bill in this case was filed for the purpose of having a sale of the plaintiff's property on Main street, in the city of Winnipeg, for arrears of taxes amounting to over \$9,000, set aside on the ground that the assessments were defective, and that they did not properly or sufficiently describe the plaintiff's land, and that the description given in the assessment notices included other property not claimed by the plaintiff. The bill also asked for an injunction to prevent the sale from being carried out by the city giving a conveyance of the land to the purchaser. At the hearing, counsel for the defendants demurred *ore tenus* on the following grounds: First, that as the bill alleges that there were no taxes in arrear and that the sale was a wholly void proceeding, it was not necessary to come to this court for relief; for if the proceedings were clearly void the plaintiff could not be injured, and an injunction should be refused.

Archibald v. Youville, 7 M.R. 473, relied on. The learned judge, however, held that inasmuch as the issue of a deed would, according to the statute 55 Vict., c. 26, s. 6, be evidence that there were taxes in arrear, an injunction ought not to be refused on this ground.

The second objection to the bill was founded on the provision of the Assessment Act, R.S.M., c. 101, s. 186. And it was contended that the bill should have contained an offer to pay the purchaser the amount paid by him at the sale, and subsequently for taxes, and otherwise.

As to this point, the learned judge held that the section did not apply where there were no legal arrears of taxes as the bill in this case alleged.

A further objection taken by the defendants was that the plaintiff ought to have applied to the city council to cancel the sale, and to have given the city an opportunity of considering whether or not it would do so, prior to the filing of the bill. His lordship thought this objection would have been good, but for