

father's will, but not in anything which might accrue thereto by reason of the death of any of his brothers or sisters. The deed of assignment provided that the equity of redemption was not to merge in the defendants' mortgage, and expressly provided that the share when received was to be applied first in payment of the defendants' claim under this mortgage, and then so far as the same would extend in payment of Mobberley's mortgage and the surplus, if any, was to be the defendant's absolute property. The share of the plaintiff in his father's estate not having yet fallen into possession, and the present holders of the Mobberley mortgage having called on the plaintiff for payment thereof, the present action was instituted calling on the defendants to pay off that mortgage on the ground of an alleged implied obligation on the part of the defendants to indemnify the plaintiff against the claim under the Mobberley mortgage. Eve, J., held, however, that the action failed, first because the implied obligation on the part of an assignee of an equity of redemption to indemnify his assignor does not take effect until the latter has obtained possession, and in this case the mortgaged property was still reversionary and contingent; and secondly because he held that there being in this case an express covenant or arrangement as to the terms on which the assignment was made it precluded any implied covenant or equitable obligation.

MORTGAGE—DEFAULT BY MORTGAGOR—MORTGAGEE IN POSSESSION

—TRUST TO APPLY RENTS IN PAYMENT OF MORTGAGE DEBT—

SURPLUS RENTS—ACKNOWLEDGMENT OF MORTGAGOR'S TITLE

—STATUTE OF LIMITATIONS, 1874 (37-38 VICT. C. 57) S. 7

—(10 EDW. VII. C. 34, S. 20 (ONT.)).

In re Metropolis and Counties P.I. Building Society (1911) 1 Ch. 698. In this case a mortgage had been made to a building society which provided that in case of default the mortgagees might enter into possession of the rents and profits and apply same in payment of the mortgage debt and pay the balance, if any, to the mortgagor, and the rules of the society provided that when a mortgage was satisfied a receipt should be indorsed on the mortgage at the expense of the mortgagor. The mortgagee having made default, the mortgagees in 1887 went into possession and received sufficient rents by the end of 1902 to satisfy the mortgage. Subsequent receipts were carried by the society to a suspense account, and it also appeared that in the annual statement of account of the society of 1909, signed by the chairman and countersigned by the secretary and sent to the Registrar