

SUPREME COURT OF ONTARIO.

1ST APPELLATE DIVISION.

JUNE 4TH, 1913.

WILSON v. TAYLOR.

4 O. W. N. 1376.

*Mortgage—Sale—Alleged Improvidence—Sale en bloc instead of in
Parcels—Delegation of Matter to Careful Solicitor by Mortgagee
—Local Conditions—Printers' Error in Advertisement—Duties
of Mortgagees Discussed—No Evidence of mala fides.*

Action for damages alleged to have been sustained by a mortgagor by reason of the alleged improvident sale of the mortgaged premises by the mortgagor, under his power of sale. The chief complaint was that the property had been sold *en bloc* instead of in parcels, against the expressed wishes of plaintiff, and the evidence went to shew that in all probability more could have been obtained for a sale in parcels. Defendant had been too old to look after the matter himself, and had put the whole business in the hands of a competent solicitor.

BOYD, C., *held*, 23 O. W. R. 359; 4 O. W. N. 253, that "if a mortgagee exercises his power of sale *bona fide* for that purpose, without corruption or collusion with the purchaser, the Court will not interfere, even though the sale be very disadvantageous, unless, indeed, the price is so low as to be in itself evidence of fraud."

Haddington Island Quarry Co. v. Huson, [1911] A. C. 729, and other cases as to liabilities of mortgagee selling, reviewed.

Aldrich v. Can. Perm. Loan Co., 24 A. R. 193, distinguished. Action dismissed without costs.

SUP. CT. ONT. (1st App. Div.) dismissed appeal with costs.

Appeal by the plaintiff from the judgment of the Chancellor, dated 7th November, 1912, after trial before him sitting without a jury at Brockville on 31st October of that year.

The facts are fully stated in the reasons for judgment of the learned Chancellor, which are reported in 23 O. W. R. 359.

The appeal to the Supreme Court of Ontario (First Appellate Division) was heard by HON. SIR WM. MEREDITH, C.J.O., HON. MR. JUSTICE MACLAREN, HON. MR. JUSTICE MAGEE, and HON. MR. JUSTICE HODGINS.

J. E. Hutcheson, K.C., for appellant.

J. L. Whiting, K.C., and J. A. Jackson, for respondent.

HON. SIR WM. MEREDITH, C.J.O.:—In the view of the Chancellor the mortgagor had been damaged to the extent of at least \$1,800 as the effect of the sale of the mortgaged property *en bloc* instead of in parcels.