

SUPREME COURT OF ONTARIO.

SECOND APPELLATE DIVISION.

MARCH 12TH, 1914.

RE JONES AND TUCKERSMITH.

6 O. W. N. 71.

Way—Highway—By-law Closing Same—Dedication—No Acceptance by Municipality—Surveys Act, 1 Geo. V. c. 42, s. 44—Registry Act, 10 Edw. VII. c. 60, s. 44, s.s. 6—Quashing of By-law.

MIDDLETON, J., 25 O. W. R. 680; 5 O. W. N. 759, held, that where a highway had been dedicated but never accepted by the municipality the latter could not by by-law assume to close the same and sell it.

SUP. CT. ONT. (2nd App. Div.) set aside the order quashing the by-law, and referred the matters in question upon the appeal and motion to quash to the Judge assigned for the trial of the action of *Jones v. Township of Tuckersmith*, and directed that the Judge should not be bound by the decision of MIDDLETON, J., upon the motion to quash. Costs of the motion to quash and of this appeal to be in the discretion of the trial Judge.

Appeal by the Township of Tuckersmith, from an order of HON. MR. JUSTICE MIDDLETON, 25 O. W. R. 680.

The appeal to the Supreme Court of Ontario (Second Appellate Division) was heard by HON. SIR WM. MULOCK, C.J.Ex., HON. MR. JUSTICE RIDDELL, HON. MR. JUSTICE SUTHERLAND, and HON. MR. JUSTICE LEITCH.

R. S. Robertson and R. S. Hays, for the appellants.

W. Proudfoot, K.C., for certain ratepayers, the respondents.

SUPREME COURT OF ONTARIO.

SECOND APPELLATE DIVISION.

NOVEMBER 25TH, 1913.

BROWN v. THOMPSON.

5 O. W. N. 351.

Statute of Limitations—Charge on Land—Power of Attorney—Laches—Forty Years' Delay.

LENNOX, J., 24 O. W. R. 967; 5 O. W. N. 19, dismissed an action brought upon a power of attorney alleged to form a charge on certain lands in favour of plaintiff's assignor, where no attempt had been made to enforce the alleged charge for over 40 years.

SUP. CT. ONT. (2nd App. Div.) affirmed above judgment.

Appeal by the plaintiff from a judgment of HON. MR. JUSTICE LENNOX, 24 O. W. R. 967.