

PERNEY V. DORAN—SUTHERLAND, J.—JAN. 13.

*Mortgage—Redemption—Dispute as to Amount Due—Application of Payments—Tender—Costs.*—An action for redemption. The plaintiff desired to have a mortgage for \$2,200 upon a valuable property in the city of Niagara Falls discharged. The mortgage was made by one McClive in favour of the defendant on the 23rd June, 1913. There was a dispute as to the application of certain payments made by McClive to the defendant. The plaintiff acquired the property, subject to the mortgage, on the 28th June, 1916. This action was begun on the 27th September, 1916, the plaintiff alleging that the amount then due for principal and interest on the mortgage was \$1,680. It was admitted that the plaintiff had, on or before the date when the statement of claim was delivered, tendered \$1,680 to the defendant; the tender was refused, the defendant claiming the full sum of \$2,200. The action was tried without a jury at Welland. Upon the evidence, the learned Judge found in favour of the plaintiff's contention. Judgment declaring the plaintiff entitled to redeem and on payment of \$1,680 to receive from the defendant a discharge of the mortgage. The defendant to have his costs of the action down to the date of the filing of the statement of claim, the 31st October, 1916, and the plaintiff costs thereafter, the excess of the plaintiff's costs over the defendant's to be deducted from the \$1,680. C. V. Langs, for the plaintiff. F. C. McBurney, for the defendant.