

J. Bicknell, K.C., for the plaintiff.

G. Bell, K. C., for defendants Marshall and Gray's Siding Development Co.

J. A. Worrell, K.C., for Royal Trust Co.

HON. MR. JUSTICE KELLY:—The parties all agree that the property should again be offered for sale and that the order or direction to that effect made by the Master-in-Ordinary on July 28th, 1913, and the advertisement in pursuance thereof for sale on October 1st, 1913, should be confirmed, except as to the provision that the sale shall be subject to a reserve bid, to which term plaintiffs take exception.

The necessity for a re-sale arises from the party who, at the sale by the Master on July 8th, 1913, was declared the purchaser having made default in payment on the required deposit and in complying with the other terms of the sale.

Following upon so much delay in bringing about the sale, I think it proper that the order or direction of the Master for another sale, as well as all proceedings in pursuance thereof, should be confirmed, and the sale proceeded with accordingly. This includes the term that the sale shall be subject to a reserve bid.

I cannot agree with the plaintiff's contention that owing to what took place at the attempted sale on July 8th, the coming sale should not be made subject to such reserve. I cannot disregard the views held by the Court of Appeal in the judgment of March 6th, 1913 (24 O. W. R. 513). The fact that the reserve bid fixed by the Master for the sale on July 8th has been divulged does not interfere with that view. The Master will fix a reserve bid for the coming sale; whether the amount thereof will be the same as at the sale on July 8th or more or less is for him to determine on the facts before him and the knowledge he possesses of the matter.

That part of the application which asks judgment against Sullivan and Alrich for any deficiency at the coming sale I leave to be disposed of after the sale on October 1st, and after notice to them of the result thereof and of the application to hold them liable for any deficiency; such notice may, without further order, be served upon them in the same manner as was directed for the service of notice of the present application.

The vendor's costs of this application are to be allowed as part of the costs of the sale.