

it applies even there. A mortgagor and mortgagee are not co-owners. Certainly one summons should not be issued with respect to all the parcels.

The material filed does not shew what taxes were paid. The applicant contents himself by saying "all the taxes."

On this material, apart from the technical objections, the order sought cannot be made. To avoid difficulty in the future under this statute, I have supplied the Clerk in Chambers with a form of summons, which may be found of use.

SUPREME COURT OF ONTARIO.

FIRST APPELLATE DIVISION.

JANUARY 26TH, 1914.

BROOKS v. MUNDY.

5 O. W. N. 795.

Mechanics' Liens—Claim of Sub-contractor—Abandonment by Contractor—Owner not Indebted to Contractor — Mechanics' and Wage-Earners' Lien Act 7 Edw. VII., c. 69, s. 6, 10, 12—Retention by Owner—Effect of Non-Retention—Neglect to File Lien within 30 Days of Abandonment of Contract—Dismissal of Action—Appeal.

SUP. CT. ACT. (1st App. Div.) *held*, if a sub-contractor did not file a mechanic's lien against the lands for goods supplied within thirty days of the abandonment of a contract by a contractor, his right was barred even though the owner had not complied with s. 12 of the Act and retained 20 per cent. of the value of the work and materials furnished upon such contract for the period of 30 days from such abandonment.

Judgment of Local Master at Ottawa reversed with costs.

Appeal by the defendant Mundy from a judgment of the Local Master at Ottawa dated 11th November, 1913, in a mechanic's lien action.

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 LENNOX.

J. G. O'Donoghue, for appellant.

J. R. Code, for respondent.

HON. SIR WM. MEREDITH, C.J.O.: — The appellant employed his co-defendant Gagnon to build four tenement houses for \$5,650, and Gagnon sub-let the plastering work to the