

making a new one, and to such an extension or renewal the Act is applicable.

The appeal should be allowed and the order below set aside.

ROSE, J., was of the same opinion, for reasons stated in writing, in which he referred to *Guardians of West Derby Union v. Metropolitan Life Assurance Society*, [1897] 1 Ch. 335, [1897] A.C. 647.

RIDDELL, J., agreed in the result.

LENNOX, J., dissented, giving written reasons.

Appeal allowed; LENNOX, J., dissenting.

HIGH COURT DIVISION.

MIDDLETON, J.

DECEMBER 3RD, 1917.

GODSON CONTRACTING CO. v. GRAND TRUNK R.W. CO.

Limitation of Actions—Adverse Possession of Land—Acts of Possession—Evidence—Finding of Fact of Trial Judge.

Action for a declaration of the plaintiffs' title to a small parcel of land situate south of the Toronto Belt Line Railway, and forming part of the original road-allowance east of township lot 21 in the 3rd concession from the bay of the township of York.

The plaintiffs claimed by a paper-title, and the defendants by an alleged possessory title acquired by one John Lander, now deceased.

The action was tried without a jury at Toronto.

E. D. Armour, K.C., and W. S. Montgomery, for the plaintiffs.

D. L. McCarthy, K.C., and W. E. Foster, for the defendants.

MIDDLETON, J., after setting out the facts in a written judgment, said that the possession shewn by the defendant was sufficient to establish a possessory title. The enclosing lands as part of the entire estate and the asserting of dominion over them and using them as they were used—cultivating where capable of cultivation, caring for and pruning trees in the ravine, cutting timber for fuel, drawing gravel from a gravel-pit, and other acts