

Subject to Mortgage — Apprehension as to Solvency of Purchaser.]—Motion by the plaintiff for leave to prosecute this action under the provisions of the Mortgages and Purchasers Relief Act, 1915. The defendant made a mortgage on the 22nd March, 1910. He afterwards conveyed the mortgage lands to a company, which, as part of its purchase-price, assumed and agreed to pay off the mortgage-debt; but there was no novation. Upon this mortgage the principal was payable by instalments. The instalments of \$500 due on the 22nd September, 1914, and 22nd March, 1915, were not paid. The interest falling due had been paid. It was conceded that, if an application were made for leave to proceed against the owner of the equity of redemption, a case would be made out for relief under the statute. But the plaintiff did not desire to proceed against the land, and sought only to recover the two overdue instalments from the mortgagor, upon his covenant. Upon this application the mortgagor did not attempt to shew anything which would entitle him to delay, under the Act mentioned, by reason of any inability to pay upon his own part, but he objected to the action proceeding against him, because he in his turn, if he redeemed, would not be able to enforce his claim against the present owner of the land. MIDDLETON, J., said that he could not go beyond the letter of the statute; and that, unless the defendant could shew circumstances which, under the statute, entitled him to relief, the order asked for must go. The order should, therefore, be made; costs to be part of the costs in the action. L. Duncan, for the plaintiff. Grayson Smith, for the defendant.

HAMILTON V. GALLOW—CLUTE, J.—MAY 14.

Fraud and Misrepresentation — Assignment of Interest in Estate in Consideration of Advances—Rescission—Repayment of Advances—Costs.]—Action by John D. Hamilton and the Guardian Trust Company Limited, committee of the estate of John D. Hamilton, against Edward Gallow, and also against Osler Wade, assignee for the benefit of creditors of the estate of John D. Hamilton, to set aside an agreement made on the 19th September, 1910, between the plaintiff Hamilton and the defendant Gallow, and other agreements, and for an accounting, upon the ground that the plaintiff's signature to the agreements was obtained by fraud and undue influence and while the plaintiff was incapable of managing his own affairs and incapable of