

and the defendants, but they ask for a declaration of title, an injunction, and damages. The state of the title at the time the adverse possession began has been shewn. The parties ousted were owners in fee. The conveyance at the tax sale was of a fee. There are, therefore, no outstanding estates in remainder to vest at a later date. In Halsbury's Laws of England, vol. 19, p. 155, par. 316, it is said: "The operation of the statute is merely negative, it extinguishes the right of the dispossessed owner, and leaves the occupant with a title gained by the fact of possession resting on the infirmity of the right of others to eject him." But he is clearly entitled to be protected against the aggression of others who seek to disturb him, including a former owner who has lost his title by laches. I have come to the conclusion, though not without some hesitation, that the plaintiffs are entitled to all the relief claimed.

There will be judgment declaring that the plaintiffs are owners in fee of the land in question, for an injunction restraining the defendants from entering upon or interfering with this land, a reference to the Local Master at Sandwich to ascertain and assess the damages sustained by the plaintiffs, and judgment thereon.

The plaintiffs will have the costs of the action and reference.

References: Lloyd v. Henderson (1875), 25 U.C.C.P. 253; Brooke v. Gibson (1896), 27 O.R. 218; McConaghy v. Denmark (1880), 4 S.C.R. 609; Sherren v. Pearson (1887), 14 S.C.R. 581; Nixon v. Walsh (1911), 2 O.W.N. 1218; Griffith v. Brown (1880), 5 A.R. 303; Rooney v. Petry (1910), 22 O.L.R. 101; and Donovan v. Herbert (1884), 4 O.R. 635.

KELLY, J.

JULY 8TH, 1914.

RE NEAL AND TOWN OF PORT HOPE.

Highway—Closing by Municipality—Injury to Neighbouring Lands—Compensation—Award—Street Closed to Facilitate Railway Construction—Benefit to Property from Railway—Refusal of Arbitrators to Consider—Affirmance on Appeal—Municipal Act, 1913, sec. 325—Nonretroactivity—Evidence—Depreciation of Property in Value.

Appeal by the Corporation of the Town of Port Hope from an award of two of three arbitrators appointed to fix the amount