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HIGH COURT DIVISION.

MIDDLETON, J.

NOVEMBER 1ST, 1917.

*UREN v. CONFEDERATION LIFE ASSOCIATION.

Mortgage—Power of Sale—Exercise of—Purchase by Second Mortgagee—Action to Set aside Sale and for Redemption—Notice of Sale actually Served, but not on all Persons Interested—Right of Mortgagee to Stand on Provision for Sale without Notice—Abortive Auction Sale—Test of Value—Advertisement of Sale—Two Parcels Offered together—Bona Fides of Sale—Value of Land—Expert Testimony—Right to Redeem.

Action to set aside a sale by the defendant association to the defendant Harris, under a power of sale contained in a mortgage to the association, of a part of the mortgaged land in which the plaintiff had an interest, and for redemption.

The action was tried without a jury at Toronto.
Shirley Denison, K.C., for the plaintiff.
G. H. Kilmer, K.C., for the defendants.

MIDDLETON, J., in a written judgment, after setting out the facts, said that the *first* contention was, that the mortgagee-defendant was put to its election, and, having chosen to give a notice of exercising the power of sale, must, at its peril, give a valid notice. With this the learned Judge did not agree. There was a power of sale, and it might be exercised upon the arising of either of two conditions precedent—two months' default and notice, or three months' default without notice. The right to

* This case and all others so marked to be reported in the Ontario Law Reports.