

legal title, though it might continue subject to the defendant's equitable right to redeem.

Now this is an action at law, and at law, all that the plaintiffs have to establish in this suit, so far as concerns title, is that they have the legal title and right to possession and have acquired an actual, or constructive possession, of the locus in quo by entry under such title. A mortgagee, after default by the mortgagor, and indeed before default where there is nothing to shew a contrary intention between the parties, has the right to enter and take possession of the lands mortgaged. Perley and the Smiths, after White's conveyance to them, took possession of the mortgaged lands, and although the defendant swears they never attempted to interfere with her occupancy of the strip lying south of the dotted line, their entry upon part of the mortgaged premises would give them constructive possession of the whole sufficient to have enabled them to maintain trespass, unless it were shewn that by such entry it was not intended to acquire possession of the disputed strip. Moreover, it appears from the defendant's own evidence that the plaintiffs in July, 1906, and therefore after they had received their deed from Perley and the Smiths, entered upon the very strip now claimed by the defendant and cut hay there, and furthermore it appears that at the time the trespass complained of was committed, in August, 1906, the defendant was picking apples on this lot, that the plaintiff, John N. Chute, entered upon the land and ordered her to quit the premises, that she refused to leave, and that he had to use force to remove her. Therefore, even if there had been no entry by Perley and the Smiths, and even if the hay cutting by the plaintiffs did not constitute such an entry by them as would enable the plaintiffs to maintain trespass for subsequent acts done by the defendant upon the land, it would still be true that from the time the plaintiffs entered in August and ordered the defendant to leave, her act in refusing to go until ejected by force, would constitute a trespass to the land for which the plaintiffs could recover.

For these reasons, I think, the verdict rendered by the learned Judge should stand.

A number of objections were taken to the admission of evidence. Without going into them in detail, I may say I think there is nothing in any of them requiring a new trial.

I have not dealt with the plaintiffs' claim to title to the locus in quo through Angelina Birmingham, because the