

HON. MR. JUSTICE BRITTON.

JULY 8TH, 1913.

HOME BUILDING AND SAVINGS ASSOCIATION v.
PRINGLE.

4 O. W. N. 1583.

Mortgage—Judgment for Redemption or Sale—Appeal from Master's Report—Subsequent Encumbrancers — Who are — Subsequent Purchasers—Evidence — Costs — Discretion of Master as to— Appeal Dismissed.

BRITTON, J., dismissed with costs an appeal from the report of the Local Master at Ottawa in a mortgage action.

Appeal by the defendants McKillican and Smith from an interim report made by the Master at Ottawa, dated 13th May, last, heard in Weekly Court at Ottawa, May 31st, 1913.

A previous report was made by the Master, and an application by way of appeal from it was made to HON. MR. JUSTICE SUTHERLAND on various grounds to open it up. This appeal was dismissed, see 22 O. W. R. 791.

An appeal from that judgment was taken to a Divisional Court. That Court thought the facts not fully found by the Master and sent the case back for further inquiry, see 23 O. W. R. 137.

After further enquiry the Master made the report which is the subject of the present appeal.

C. H. Cline, for appellants.

F. A. Magee, for plaintiffs.

HON. MR. JUSTICE BRITTON:—I have before me the findings of fact by the learned Master, his report, and his reasons for his findings and for his report. The appeal was argued ably and at length before me at Cornwall and in addition there were placed before me the written arguments used before the Master and before my brother Sutherland, and before the Divisional Court.

I am of opinion that subsequent purchasers of portions of the mortgaged property, who have given mortgages thereon are not necessarily subsequent encumbrancers; within the meaning of the rules. The plaintiffs were at liberty to make such of the owners of, (as put by the Master)