

RE EOLL AND HAMILTON—ROSE, J.—MAY 12.

Mortgage—Sale under Power—Surplus Proceeds of Sale—Distribution—Findings of Master—Appeal—Priorities—Syndicate—Equalisation of Payments.—Three appeals from the report of the Local Master at Sault Ste. Marie upon a reference to him to ascertain the persons entitled, and the proportions in which they are entitled, to certain moneys in Court, being the surplus realised upon a mortgage sale over and above the amount required to satisfy the claims of the mortgagees. The appeals were heard in the Weekly Court, Toronto. ROSE, J., in a written judgment, said that a certain syndicate, consisting of those who had been held entitled to divide among them the moneys in Court and others, owned lands which they mortgaged to secure \$15,000; they transferred the lands to a second syndicate, of which some of the members of the first became members; the second syndicate made a mortgage to the members of the first for \$108,000; Eoll, a member of both, collected certain moneys from the members of the second, and distributed them amongst those members of the first whom he believed not to have gone into the second, but these moneys did not nearly satisfy the claims of the payees under the \$108,000 mortgage; the moneys in Court were the surplus proceeds of a sale under the \$15,000 mortgage. The Master found that the members of the first syndicate who became members of the second had no right to share in the fund. From this there was no appeal. The first appeal, by McDonald and Woodgate and others, was against a finding that Finlayson and Dear were entitled in priority to the other claimants to certain sums required to equalise the amounts received by all the claimants, including Finlayson and Dear. The learned Judge said that he could find no reason for disturbing the holding that those who had had too much must let those who had had too little draw out of the moneys now available for distribution such amounts as were necessary to establish an equality before distribution of the balance of the fund. This appeal should be dismissed. The second appeal was by Finlayson and Dear against a finding that Dawson was entitled to share in the fund. Dawson was a member of the first syndicate who did not go into the second. Dawson had made an assignment to one Dowler; but Dowler said that, whatever the form of the assignment, he did in fact acquire Dawson's interest in the fund; and it could not be said that the Master was wrong in finding that Dawson was entitled to rank. This appeal should be dismissed. The third appeal was by the Royal Bank of Canada against a finding that Dowler became a member of the second syndicate. The evidence amply supported the finding. As all the appeals failed, and every one concerned was appellants in one appeal,