

The appeal was heard by MEREDITH, C.J.O., MACLAREN, MAGEE, and HODGINS, JJ.A.

G. H. Watson, K.C., and T. W. McGarry, K.C., for the appellants.

R. McKay, K.C., and A. G. Slaght, for the defendant, the respondent.

THE COURT dismissed the appeal with costs.

HIGH COURT DIVISION.

MIDDLETON, J.

MARCH 16TH, 1914.

CARRIQUE v. PILGAR.

Mortgage—Action for Foreclosure and Possession—Interest and Instalments of Principal Provided for not in Arrear—Breach by Mortgagor of Covenant to Insure—Inability to Obtain Insurance—Re-demise Clause—Right of Mortgagee to Possession, but not Foreclosure—Costs.

Action upon a mortgage, the plaintiff claiming foreclosure and possession.

G. G. Plaxton, for the plaintiff.

J. M. Godfrey, for the defendant.

MIDDLETON, J.:—The mortgage was originally for \$3,400, payable \$100 per annum on account of principal each year from its date—the 2nd April, 1906. Nothing is in arrear. More than the yearly instalment has been paid under a clause so permitting; \$2,000 and interest from the last gale-day is yet to be paid.

The mortgage contains a covenant to insure for \$1,450. The covenants are the ordinary short form covenants.

The husband of the mortgagor was found guilty of arson committed on an adjoining farm, and sentenced to two years' imprisonment in the central prison. His term will soon be up.

On learning of the fact of the conviction, the insurance company cancelled its policy; and, though new insurance has been twice placed on the property, in each case the company has