

NOVEMBER 5TH, 1013.

HOME BUILDING AND SAVINGS ASSOCIATION v.
PRINGLE.

Mortgage—Judgment for Redemption or Sale—Reference—Parties—Assignees of Parts of the Equity of Redemption—Subsequent Incumbrancers—Addition of Parties in Master's Office—Account—Costs—Con. Rules 190, 716—New Rules 16, 404, 433, 468, 469, 490.

Appeal by the defendants McKillican and Smith from the order of BRITTON, J., 4 O.W.N. 1583, dismissing without costs an appeal from a report of the Local Master at Ottawa.

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

C. H. Cline, for the appellants.

F. A. Magee, for the plaintiffs, respondents.

The judgment of the Court was delivered by HODGINS, J.A.:—In this case the mortgagees began their action for sale as to the whole of the lands comprised in the mortgage, except three parcels released by them, and against thirty-three defendants. They discontinued against twenty-two. It is alleged that the thirty-three were not all that were interested in the equity of redemption. The action did not become fatally defective on the discontinuance; for, although it is quite clear that all parties interested in the equity of redemption must be parties, they may be made parties either by writ or in the Master's office: *Jones v. Bank of Upper Canada*, 12 Gr. 429; *Buckley v. Wilson*, 8 Gr. 566: "Where, after a mortgage being given, the equity of redemption is severed, so that different persons are entitled to redeem in respect of different parcels, these different persons must be made parties in a suit to foreclose the mortgage." See also, in England, *Peto v. Hammond* (1860), 29 Beav. 91; *Caddick v. Cook* (1863), 32 Beav. 70; *Halsbury's Laws of England*, vol. 21, p. 279; *Griffith v. Pound* (1890), 45 Ch.D. at p. 567; *Gee v. Liddell*, [1913] 2 Ch. 62.

Under Rule 190 (now 490), if it appears to the Court or Judge that, by reason of their number or otherwise, it is expedient to permit the action to proceed without the presence of all, the Court or Judge may give direction accordingly, and may order the others to be made parties in the Master's office. After