

RIDDELL, J., also read a judgment. In the main he agreed with the Chief Justice, and was in favour of affirming the judgment, but not necessarily for the full amount allowed by the judgment at the trial. If the defendant did not object to the amount, the appeal should be dismissed with costs; if he did object, the amount should be fixed by the Registrar at the cost of the defendant, and judgment should be entered for that sum, with costs here and below.

LENNOX, J., agreed that the appeal should be dismissed.

ROSE, J., agreed with RIDDELL, J.

*Appeal dismissed with costs.*

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#### HIGH COURT DIVISION.

SUTHERLAND, J., IN CHAMBERS.

JANUARY 23RD, 1918.

#### GREISMAN v. ROSENBERG.

*Mortgage—Final Order of Foreclosure—Opening up on Application of Assignee of Execution Creditor, not Made a Party and not Served with Notice—Rules 469, 470—Doubt as to whether Execution Satisfied—New Account and New Day for Redemption—Improvements Made by Mortgagee—Lien for—Conveyancing and Law of Property Act, sec. 37.*

Appeal by the plaintiff from an order of the Master in Chambers setting aside a final order of foreclosure obtained by the plaintiff, and directing a reference to the Master in Ordinary to take an account and fix a new day for redemption.

Shirley Denison, K.C., for the plaintiff.

J. J. Gray, for Hyman Gross.

SUTHERLAND, J., in a written judgment, said that, at the time the writ of summons was issued, there was a writ of execution apparently in force in the hands of the sheriff, of which Hyman Gross became the assignee. The plaintiff did not follow the practice provided by Rule 469 with reference to bringing into the Master's office a certificate of the sheriff, and Gross was not