

CHANCERY DIVISION.

Boyd, C., and Ferguson, J.]

[Dec. 16, 1882.]

ARNOLDI V. O'DONOHUE.

Costs—Taxation—Solicitor and client—Special circumstances—Delivery of bill.

On 20th July, 1877, a firm of barristers and solicitors who had been employed by a solicitor to perform professional services, rendered their bill for services so performed.

On 30th May, 1878, the solicitor to whom the bill was rendered, wrote claiming a reduction of the bill on the ground of over charge, and also on the ground that the work had been agreed to be done for half fees. No notice was taken of this letter.

In February, 1882, an action was commenced in the County Court on this bill, and judgment entered for default of appearance. This judgment was by consent subsequently waived, and the action in the C. C. discontinued, and a bill for further services rendered since July, 1877, was then delivered on 27th July, 1882. In this bill was included an item, "To amount of judgment entered 19th July, 1882, \$268.67, for previous accounts rendered." An action was then commenced in the Chancery Division for the amount of the two bills.

On the trial of the action, judgment was given for the amount of the first bill as rendered, and also for the amount of the second bill, subject to taxation.

Held, on appeal to the Divisional Court, that neither the existence of a controversy as to the terms on which the business was done, nor the continuance of the employment after the delivery of the first bill, were special circumstances entitling the solicitor to a taxation of the first bill after the lapse of a year.

Held, also, that the reference in the second bill to the amount claimed for the first bill, was not a re-delivery of the first bill.

O. Howland, for plaintiff.

O'Donohue. Q.C., defended in person.

Proudfoot, J.]

[Dec. 16, 1882.]

MILLER V. BROWN.

Mortgagee and mortgagor—Statute of Limitations—Acknowledgement—Consolidation of mortgages—Registry Act.

D. H. being owner of certain land in Toronto,

on 18th Dec. 1850, executed a mortgage thereon to A. Cruickshank, which mortgage on 12th June, 1851, was assigned to J. H. Cameron, trustee for A. L.

D. H. also on 3rd May, 1851, executed a mortgage jointly with Cruickshank on certain land in the Township of Reach, to A. McDonald, who, on 17th January, 1852, assigned the mortgage to J. H. Cameron, as trustee for A. L.

On 22nd June, 1852, Cameron being then holder of both of the above mentioned mortgages, D. H. conveyed the equity of redemption in the Toronto lands to the plaintiff, which conveyance was duly registered. At that time there also existed a mortgage on these lands to one P. McGill, prior to that assigned to Cameron, which prior mortgage the plaintiff subsequently paid off. The plaintiff, when he received the conveyance from D. H., had no notice of the mortgage held by Cameron on the lands in Reach.

In 1862, Cameron went into possession of the Toronto lands. On 11th May, 1871, he wrote and sent a letter in the following terms to the plaintiff:—"Toronto, 11th May, 1871. Dear Miller—The amount due to me in Nov. 1853, on the Hunter mortgages was as follows: First Mortgage, £112 10s. *od.*; interest, £10 2s. 6d. Second Mortgage, £450 0s. *od.*; interest, £64 1rs. *od.* Insurance, £36 0s. *od.* = £676 2s. 6d. No part of that sum has since been paid to me, and the rents I have received have nearly kept down the interest. Yours truly, J. H. Cameron. R. B. Miller, Esquire."

In June, 1876, the plaintiff commenced this action at law against the defendant Brown, who claimed both as purchaser from Cameron and also by possession, for recovery of possession of the Toronto lands. On 8th Sept., 1879, the action was transferred to the Court of Chancery. On 20th June, 1880, a decree for redemption was pronounced, with a direction to make the representative of A. L., and the representatives of Cameron, parties in the Master's office.

On 29th Oct., 1880, the Master made an order adding A. L.'s representative as parties in his office. This order was served on 5th Nov., 1880.

On 15th March, 1882, on application of the representatives of A. L. and of Cameron, an order was made allowing them to put in an answer to the cause. They accordingly put in