

brance of every person (including the defendants) except the Crown; and for payment by the defendant or some of them of that sum and interest and the costs (\$32.50) of an order permitting the action to be brought; and, in default of payment, to enforce the lien by sale; and also for payment by the defendants the Trusts and Guarantee Company Limited and the liquidator of the defendants the Imperial Land Company Limited of all sums received by them for rents and profits, insurance, or purchase-money, on any of the lands in question.

The action was tried before KELLY, J., without a jury, at North Bay.

G. H. Kilmer, K.C., and J. M. MacNamara, K.C., for the plaintiffs.

S. H. Bradford, K.C., and J. Bradford, for the defendants the Imperial Land Company Limited and E. R. C. Clarkson.

H. W. Mickle and A. D. Armour, for the defendants the Trusts and Guarantee Company Limited.

KELLY, J.:—On the 25th June, 1909, on petition of the plaintiffs, an order was made for the winding-up of the defendants the Imperial Land Company Limited, and the defendant Clarkson was appointed liquidator of that company.

The defendants the Trusts and Guarantee Company Limited are trustees under a mortgage deed of trust to secure bonds issued by the defendants the Imperial Land Company Limited.

Amongst the defences set up are: that no taxes are due as claimed by the plaintiffs; that the assessments for the various years for which the claim is made were not valid; and that the imperative requirements of the Assessment Act and Municipal Act have not been complied with.

On the 1st September, 1908, the plaintiffs accepted from the defendants the Imperial Land Company Limited their promissory notes of that date, as follows: \$500 at 3 months; \$500 at 6 months; \$500 at 9 months; \$500 at 12 months; and \$957.93 at 12 months; all of which notes bore interest at six per cent. per annum. These notes were given and accepted for the taxes on the lands in question for the years 1906 and 1907.

On the 1st February, 1909, the plaintiffs obtained judgment against the defendants the Imperial Land Company Limited for the amount of the first note; and on the 30th March, 1909, judgment for the amount of the second note.

The defendants contend that, even if the plaintiffs became entitled to a lien in respect of the taxes, they have lost their right thereto for the years 1906 and 1907, by accepting the notes.