

BARKER, C.J.:—The plaintiff has excepted to the Referee's report as to the amount due on the mortgage. The plaintiff took possession under his mortgage on the 29th August, 1902. The mortgage was given to secure the payment of \$450 and interest at the rate of 7%. The Referee has found that when the plaintiff took possession there was due on the mortgage \$587.20, and about this sum there is no dispute. He has also found that the plaintiff since he went into possession has expended in the payment of taxes, ground rents, necessary repairs and improvements up to March 4th, 1909, the sum of \$976.14, and about this there is no dispute. He has also reported that the interest chargeable under the mortgage from August 29th, 1902, to March 4th, 1909, is \$243.51. He also finds that the plaintiff received from rents during the same period the sum of \$1,239.99, leaving a balance due on the mortgage of \$560.76 on March 4th, 1909. There seems to be an error, as the balance should be \$566.86. From the balance of \$560.76 the Referee has deducted the sum of \$138.97 for rents which the plaintiff is chargeable as having been lost by his default. This leaves the sum of \$421.79 as the true balance found by the Referee to be due on the mortgage on the 4th March, 1909. The third exception refers to the item of \$243.51 which the plaintiff alleges was made up on a wrong principle. He claims that it should be \$267.17. I do not think either sum is correct. The principle upon which the account of a mortgagee in possession should be made up is stated by Jessel, M.R., in *Union Bank of London v. Ingram*, 16 Ch. D. 53. He says: "In taking the account you take all the mortgagee's receipts, &c. . . . for all the rents and receipts go in reduction of the principal and interest" (see page 56). See also *Bright v. Campbell*, 41 Ch. D. 388.

The Referee made up the account by crediting rents as they came in on the mortgage as payments. The difference is not very great. The plaintiff's amount is wrong. He has charged 7% on the balance of \$587.20, which of itself is partly made up of interest. By the endorsement on the summons which issued March 11th, 1902, there was due for interest \$12.50 and the interest from March 11th, 1902, to August 29th, 1902, is \$14.74. These two items, amounting to \$27.24, should be deducted from the \$587.20 and interest charged on the difference, or \$559.96 from August, 29th, 1902, to March 4th, 1909—six years and one hundred and