

right thereto for the years 1906 and 1907, by accepting the notes.

On October 5th, 1908, plaintiffs passed a resolution instructing the tax collector to mark as paid all taxes owing by defendants, the Imperial Land Company Limited, on the collector's rolls of 1906 and 1907, as the same had been settled by notes, and entries were made in the collector's rolls for 1907 accordingly. The collector's roll for 1908 does not shew any arrears for these properties.

Defendants set up, too, that such other parties as may be owners of or interested in any of the lands in question should be added as parties to these proceedings.

On the opening of the trial, counsel for plaintiffs agreed that if it should be found that any of the lands in respect of which plaintiffs claimed a lien, were owned by any other person or persons not parties to these proceedings, plaintiff's claim for lien on the lands so owned by others should be abandoned in this action, plaintiffs reserving their rights to proceed against such other person or persons, and the lands owned by them by separate actions or proceedings.

In the first place, is this a case where the Court should be asked to make a declaratory order in respect of the special lien claimed by plaintiffs?

Plaintiffs not only ask a declaration as to a lien, but also that in default of payment of the amount claimed, the lien should be enforced by sale of the lands. They rely for relief on sec. 89 of the Assessment Act, 4 Edw. VII., ch. 23, which is as follows: "89. The taxes due upon any land with costs may be recovered from the owner or tenant originally assessed therefor, and from any subsequent owner of the whole or any part thereof, saving his recourse against any other person, and shall be a special lien on the land, enforceable by action, in priority to every claim, privilege, lien, or encumbrance of every person except the Crown, and the lien and its priority shall not be lost or impaired by any neglect, omission or error of the municipality, or of any agent or officer, or by want of registration."

This cannot be taken to mean that the municipality having such lien has the right to enforce it by sale in such manner as to interfere with, or deprive the owner of, the right of redemption given by the Act, in event of sale for taxes.

The Assessment Act has provided a means of realizing for taxes which are three years in arrear, and has also given the owner the right to redeem within a year after such sale.