

on the northerly part of their James street property a building running to the easterly limit of lot 2 as defined upon the ground, and at the east end of the northerly side of this building placed a door leading to the north. In 1913 they erected a wall running from this building northerly to the south-easterly corner of the building now upon the northerly part of the plaintiffs' lands. This building of the plaintiffs, according to Blondie's evidence, extends 143 feet and 5½ inches easterly from the present east side of James street. The wall erected by the defendants has had the effect, not only of severing the rear portion of the southerly part of lot 3 from the land to the west of it, but also of depriving the plaintiffs of the means of access to the westerly part from the southerly 11 feet 4 inches of lot 3 on Hughson street, over which they claim to have a right of way, and it is to restrain the defendants from so building and maintaining this wall and to assert the rights of the plaintiffs that the action is brought.

The defendants rely to some extent upon the conveyance of the 30th May, 1913, from Hill to them. This conveyance does not, however, purport to grant any part of lot 3 on James street, but is taken on the assumption that the true boundary-line between that lot and lot 3 on Hughson street lies to the west of what I find to be its real location; so that the most the defendants can claim under that conveyance is the title of Hill, whatever it was, to the westerly portion of lot 3 on Hughson street, and his right, title, and interest, if any, over the rear 12 feet of lot 3 on James street. Hill had, however, long prior to making this conveyance, parted with all of lot 3 on James street except any right that might have remained in him to pass over the rear 12 feet thereof. . . .

A further position taken by the defendants is, that Martin's title was not perfected by the foreclosure, inasmuch as Lamb's interest in the mortgaged property was not properly gotten in by these proceedings. This is based on the contention that Lamb, being a grantee of the equity of redemption, was not the holder of a lien, charge, or incumbrance, and was not properly made a party defendant in the proceedings. Whatever may be said in favour of this contention under other conditions, I think the legal estate of which Martin was possessed having become vested in the plaintiffs is sufficient to overcome the objection, so far at least as concerns the plaintiffs' right to maintain this action in respect of the easterly part of the James street lot. Lamb made no further conveyance of the mortgaged property, nor does it appear that he was at any time in possession. . . .