

The Ontario Weekly Notes

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APPELLATE DIVISION.

SECOND DIVISIONAL COURT. FEBRUARY 1ST, 1917.

ROOS v. SWARTS.

Evidence—Judgment—Foreclosure — Reference — Parties — Execution Creditors—Costs.

Appeal by the defendant from the judgment of SUTHERLAND, J., 10 O.W.N. 446, ante 166.

The appeal was heard by RIDDELL and LENNOX, JJ., FERGUSON, J.A., and ROSE, J.

L. E. Dancey, for the appellant.

C. Garrow, for the plaintiff, respondent.

W. Proudfoot, K.C., for subsequent incumbrancers, execution creditors, not made parties to the action, and having no notice of the proceedings in the Master's office, asked that the case should be referred back, and that they should be made parties.

THE COURT made an order opening up the judgment and directing the entry of a judgment for foreclosure in the ordinary form, with a reference to DICKSON, Local Judge at Goderich. The evidence taken before DOYLE, Local Judge, to stand quantum valeat, and all parties to have the right to call the witnesses already examined for examination or cross-examination, and also such other witnesses as they may be advised to call. Costs throughout to be costs in the cause. The costs of the execution creditors to be added to their claims.

NOTE: The above note is to be substituted for that appearing ante 363.