MODERN REALTY COMPANY, LTD.....APPELLANT; 1928

AND *Mar. 5. *Mar. 27.

M. B. SHANTZ (VENDOR).....
AND } RESPONDENTS.
ELDON D. HALLMAN (PURCHASER)..

ON APPEAL FROM THE APPELLATE DIVISION OF THE SUPREME COURT OF ONTARIO

Limitation of actions—Mortgage—Default—Possession—Constructive Possession of mortgagor—The Limitations Act, Ont., R.S.O. 1914, c. 75, ss. 5, 24—The Mortgagors' and Purchasers' Relief Acts, Ont.; 1915, c. 22, ss. 2, 3, 4; 1920, c. 38, s. 2.

Land in Ontario was mortgaged to the appellant by deed dated December 18, 1913, for $1,565, payable in instalments of $500, $500, and $565, (with interest at 6 per cent. per annum) on June 18, September 18, and December 18, respectively, 1914. The mortgage was declared to be made in pursuance of *The Short Forms of Mortgages Act* (Ont.); the mortgagors covenanted that in default the mortgagee should have quiet possession; the mortgage provided that "the said mortgagee, on default of payment for one month, may, on one month's notice, enter on and lease or sell the said lands," that "in default of the payment of the interest hereby secured, the principal hereby secured shall become payable," and that "until default of payment the mortgagors shall have quiet possession of the said lands." The only payment made was of $156 principal and $1.57 interest, on October 3, 1914, and there was no subsequent acknowledgment in any way of the mortgagee's right or title. The mortgagee never gave notice of entry, or took proceedings to exercise its remedies under the mortgage, or had actual possession or occupation. The question arose, in a proceeding, instituted April 23, 1926, under *The Vendors and Purchasers Act* (R.S.O. 1914, c. 122), whether the mortgage was barred by *The Limitations Act* (R.S.O. 1914, c. 75).

Held: Although the evidence seemed insufficient to establish continuous actual possession by the mortgagors or their successors in title, they always retained constructive possession, of the land, and the mortgagee's right of entry and right to recover out of the land was effectually barred by ss. 5 and 24 of *The Limitations Act,* unless the application of those sections was precluded by the Ontario "Moratorium Acts." Their application was not so precluded; s. 2 of *The Mortgagors' and Purchasers' Relief Act, 1920,* (c. 38), invoked by the mortgagee, by its terms applied only to a mortgage to which ss. 2 and 3 of *The Mortgagors' and Purchasers' Relief Act, 1915,* applied; and, by reason of s. 4 (3) of said Act of 1915, ss. 2 and 3 of that Act never applied to the mortgage in question. The mortgage, therefore, had ceased to bind the land.

Judgment of the Appellate Division of the Supreme Court of Ontario (60 Ont. L.R. 543) affirmed.

*PRESENT:—Anglin C.J.C. and Mignault, Newcombe, Rinfret and Lamont JJ.

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Mignault and Newcombe JJ. dissented, holding that s. 4 (3) of the Act of 1915 regulated the remedies for the recovery of interest, and did not interfere with the condition for recovery of principal provided by s. 2 of that Act; that the procedure for the recovery of the principal of the mortgage was governed by s. 2, which always applied; hence, s. 2 of the Act of 1920 applied, and it had the effect of postponing payments of principal in respect of which the mortgagors were in default to the date therein prescribed, which became the time when the period of limitation for recovery of the principal began to run; and hence the mortgagee's remedies were not barred.

APPEAL (by leave of the Appellate Division of the Supreme Court of Ontario) from the judgment of the Appellate Division of the Supreme Court of Ontario (1) dismissing the appeal by the present appellant from the judgment of Wright J. (1) dismissing its appeal from the report of His Honour, E. J. Hearn, Local Judge at Kitchener, Ontario, to whom a motion of the respondent Shantz, instituted by notice dated April 23, 1926, under *The Vendors and Purchasers Act,* R.S.O. 1914, c. 122, had been referred for enquiry and report by order of Fisher J., the said report being to the effect that the objection of the respondent Hallman (purchaser) that a certain mortgage dated 18th December, 1913, registered 12th January, 1914, made by Allan Grauel and E. R. Riener to the present appellant, had not been discharged, had been satisfactorily answered by the respondent Shantz (vendor), and that the said mortgage did not constitute a valid objection to the title, and that a good title had been shown in accordance with the contract of sale between the respondents Shantz and Hallman to certain lands.

The question for decision was whether the said mortgage was barred by *The Limitations Act,* R.S.O. 1914, c. 75.

The material facts of the case are sufficiently stated in the judgments now reported, particularly in the judgment of Newcombe J. (dissenting). The appeal was dismissed with costs, Mignault and Newcombe JJ. dissenting.

W. H. Bouck for the appellant.

G. Grant K.C. for the respondent.

The judgment of the majority of the court (Anglin C.J.C. and Rinfret and Lamont JJ.) was delivered by

(1) (1927) 60 Ont. L.R. 543.

ANGLIN C.J.C.—In a proceeding under *The Vendors and Purchasers Act* (R.S.O., 1914, c. 122), the Appellate Divisional Court, affirming the judgment of Wright J., held a mortgage of the appellant barred by *The Limitations Act* (R.S.O., 1914, c. 75, s. 24) (1). The material facts sufficiently appear in the judgments below and in the opinion of my brother Newcombe, which I have had the advantage of reading. I concur in his statement that it is not intended to express any view as to the regularity of the proceedings in the courts of Ontario.

Two grounds of appeal were urged at bar: (*a*) that the evidence of actual possession by the mortgagors and their successors, relied on by the Divisional Court, is insufficient, and that, upon the whole case, it should be held that the mortgagee was in constructive possession of the mortgaged property before the statutory period of limitation had expired owing to the mortgagor's default in payment; (*b*) that the so-called Moratorium Act of 1920 (10-11 Geo. V, c. 38, s. 2) precluded the application of *The Limitations Act* to the mortgage in question.

(*a*) While inclined to agree with the appellant that the evidence adduced for that purpose was insufficient to establish continuous actual possession by the mortgagors and their successors in title, we are of opinion that they always retained constructive possession of the mortgaged property. The mortgage was made under *The Short Forms of Mortgages Act* (R.S.O., 1914, c. 117) and expressly provided that "until default of payment the mortgagors (should) have quiet possession of the said lands," i.e., should retain possession; and the mortgagors covenanted "that in default the mortgagee (should) have quiet possession of the said lands." Interest and an instalment of principal were overdue and unpaid on the mortgage from the 18th of June, 1914. Under the last mentioned covenant the mortgagee was at any time after that date entitled "peacefully and quietly to enter into, have, hold, use, occupy, possess and enjoy the aforesaid lands, etc."; but there is no evidence that the mortgagee ever exercised its right of entry; on the contrary, it seems certain that it never took any steps in that direction, with the result that

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the possession of the mortgagors, actual or constructive, continued undisturbed. There never was, subsequent to the 3rd of October, 1914, any acknowledgment by the mortgagors or their successors in title, by payment on account or otherwise, of the mortgagee's right or title. It follows that the right of entry of the mortgagee and its right to recover the mortgage money out of the land was effectually barred by sections 5 and 24 of *The Limitations Act,* unless their application is precluded by the Moratorium Acts.

(*b*) The application of s. 2 of *The Mortgagors' and Purchasers' Relief Act, 1920,* (c. 38), invoked by the appellant, is by its terms restricted to "a mortgage * * * of real property to which sections 2 and 3 of *The Mortgagors' and Purchasers' Relief Act, 1915,* apply." The first question for determination, therefore, is whether these latter sections apply to the mortgage now before us. Interest was and continued unpaid on this mortgage from the 18th of June, 1914. Subsection 3 of section 4 of the Act of 1915 (c. 22) reads as follows:

(3) Where default is made in payment of interest, rent, taxes, insurance or other disbursements which the mortgagor or purchaser has covenanted or undertaken to pay, the mortgagee or vendor, his assignee, or personal representative shall have the same remedies, and may exercise them to the same extent, and the consequences of such default shall in all respects be the same as if this Act had not been passed, but where such interest, rent, taxes or other disbursements are paid into court or tendered to the mortgagee, vendor, assignee or personal representative he shall not continue any proceedings already commenced by him without the order required by section 2 or by section 3, as the case may be.

The interest so in arrears was never paid into court nor tendered to the mortgagee. Consequently, in the terms of subs. 3 of s. 4, the mortgagee might from the 18th of June, 1914, have had the same remedies and might have exercised them to the same extent and the consequences of the default were "the same as if this Act (inclusive of sections 2 and 3) had not been passed."

It follows that to the mortgage now before us sections 2 and 3 of the statute of 1915 never were applicable; the default in payment of interest, already existing when that statute was enacted, never having been put an end to. The case at bar accordingly is excluded from the provisions of s. 2 of the Act of 1920 by its terms.

The appeal fails and must be dismissed with costs.

The judgment of Mignault and Newcombe JJ. (dissenting) was delivered by

NEWCOMBE J.—The questions arise under *The Vendors and Purchasers Act* of Ontario, R.S.O., 1914, c. 122, upon an objection stated by the purchaser, Hallman, who had contracted with the vendor, Shantz, for the purchase of some lots of land at Queen's Park, Kitchener, or Berlin, as it was; he objected that a certain mortgage, dated 18th December, 1913, registered 12th January, 1914, made by Allan Grauel and Edward R. Riener to the Modern Realty Company Limited, had not been discharged. The vendor applied for an order declaring that the objection had been satisfactorily answered, and he notified both the purchaser and the Realty Company. The application was heard before Fisher J., who referred the case for inquiry and report to Local Judge Hearn at Kitchener, and, upon the hearing before him, the Realty Company appeared and assumed the carriage of the proceedings in support of the objection. Subsequently a question was raised as to the regularity of this procedure and as to the right of the company to be heard, but none of the parties was desirous of discussing that question, and throughout the case it has not been considered. I mention the point merely to say that it is not one of the questions which comes under consideration upon this appeal, and that it is not the intention of the court to express any opinion about it.

I shall state the facts very briefly.

By deed of 20th March, 1913, Henry M. Schneider conveyed to Allan Grauel and Edward R. Riener a farm consisting of about 125 acres, comprised in which were the lots now in question, and by deed dated four days later, the grantees mortgaged the farm to Schneider to secure the payment of $15,000, part of the purchase money. This mortgage passed through several assignments and was ultimately discharged. The Schneider mortgage is not produced; it is assumed throughout the case that it was a legal mortgage. It was discharged as to lot 435 on 26th September, 1914, but otherwise not until 22nd October, 1924. It is stated in the referee's report that there had been default in payment of this mortgage "down through the years from 1913-24," but I do not see the evidence of this in the

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record. Grauel and Riener's object in purchasing the property was to resell it in building lots, and, shortly after purchasing, they caused a survey to be made which appears by a plan showing the streets and layout of the building lots—more than 600 in all. The plan bears the official number 230, and was dated 11th June, 1913, and registered on 3rd July following. The lots were offered for sale and a number of them were sold. There were some transactions with the Modern Realty Company Limited with regard to which difficulties arose; these seem to have been settled between the vendors and the company, with the result, as far as material to the case, that by deed of 18th December, 1913, Grauel and Riener conveyed by way of mortgage to the company six of the lots, nos. 3, 5, and 7 on Queen's Boulevard, and nos. 431, 432 and 435 on Crescent Road, all in the northern part of the property surveyed, which had received the name of Queen's Park. The consideration of the mortgage was expressed to be the sum of $1,565, to be paid with interest at 6 per cent., $500 in six months, $500 in nine months and $565 in one year from the date of the mortgage.

> The said payments of principal to be made on the 18th days of June, September and December in the year 1914, together with interest at the rate aforesaid and taxes and performance of statute labour.

The mortgage is declared to be made in pursuance of *The Short Forms of Mortgages Act*. The mortgagors covenanted to pay the principal and interest; that they had good title and right to convey, and that in default the mortgagee should have quiet possession. There were also the following provisions:

> Provided that the said mortgagee on default of payment for one month, may, on one month's notice, enter on and lease or sell the said lands.
>
> * * * * *
>
> Provided that in default of the payment of the interest hereby secured the principal hereby secured shall become payable.
>
> Provided that until default of payment the mortgagors shall have quiet possession of the said lands.

The mortgagors, on 3rd October, 1914, paid on account of the mortgage debt to the Realty Company $156, principal, and $1.57, interest. These are the only payments. The mortgagors were therefore in default as to payment of principal and interest after 18th June, 1914. They did not pay the $500, principal stipulated for payment on that day;

neither did they pay the interest which fell due at the same time, and so, according to the provisions of the mortgage, the whole principal thereby secured then became payable. The mortgagee never had actual possession or occupation, but alleged that the possession was vacant, and therefore that, after default, it had the right to possession. The local judge found that there had been no abandonment of possession by the mortgagors, or their assigns, at any time; and, in the reasons for his report,

> that their possession has been open, notorious, absolute and continuous all through the years since default was made in the mortgage and that there was never any intention on their part to abandon possession of any of these lots and in addition to that the paper title as registered has been continuous in the mortgagors and their successors by successive conveyances. Streets in front of these lots were made, sidewalks built, stakes put in and replaced, hay and weeds cut on the lots, the lots advertised for sale, earth from the St. Mary's Hospital excavation placed in at least three of these lots to improve them, and although these lots have not been fenced that was because they were a part of a large subdivision which is entirely without fences.

He accordingly found that the mortgage had ceased to bind the lands and did not constitute an encumbrance or cloud upon the title.

There was an appeal to Wright J. (1), who considered that the evidence of possession was not conclusive, although he could not say that the local judge was wrong in his findings. He held that, inasmuch as the legal mortgage, that of Schneider, was not discharged until 22nd October, 1924, and, as the Realty Company therefore did not, in his view, acquire the legal estate in the lots embraced in its mortgage, nor the right of possession, there was nothing to prevent the operation of the Statute of Limitations.

There was a further appeal to the Appellate Division (1). The case was heard by the learned Chief Justice, Magee, Hodgins, Ferguson and Smith, JJ.A. The Court, while rejecting some of the evidence upon which the local judge relied, nevertheless found sufficient proof of possession by the mortgagors or their assigns to uphold his findings. Ferguson, J.A., dissented; he considered that the company was legally entitled to the possession, and was therefore constructively in possession; that there was no sufficient evidence of actual possession by the mortgagors or their assigns, and that the right of foreclosure was not barred.

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If it were not for the statutes which I shall now consider, I would not, for reasons which I shall have occasion to indicate, differ from the result reached by the majority of the Court; but, in my opinion, the judgments do not give due effect to c. 38 of 1920, the Act providing for the termination of *The Mortgagors' and Purchasers' Relief Act, 1915*, c. 22 of 1915.

The Act of 1915 was a provincial war measure; it was assented to on 8th April, 1915, although directed to take effect as from 4th August, 1914, and it was thereby enacted, among other provisions (s. 2, subs. 1) that, except by leave of a judge,

> No person shall
>
> (*a*) take or continue proceedings by way of foreclosure or sale or otherwise, * * * for the recovery of principal money secured by any mortgage of land or any interest therein made or executed prior to the fourth day of August, 1914;
>
> (*b*) take or continue any proceedings under any power of sale, or levy any distress, or take, resume or enter into possession of any land or interest therein for the recovery of principal money under any power contained in a mortgage of land, or of any interest therein, executed prior to the fourth day of August, 1914.

It was, however, enacted by s. 4, subs. 1, of the Act of 1915, that, subject to the provisions thereinafter contained, s. 2 should not apply to any mortgage or extension or renewal thereof made or entered into after 4th August, 1914, nor to proceedings taken for the recovery of interest or rent or taxes or insurance or other disbursements for which the mortgagor was liable in the first instance, and as to which he was in default, "nor to any proceedings or act done by a mortgagee in possession on the 4th day of August, 1914, with respect to the land or interest in land of which he is the mortgagee." Now, the mortgage to the Realty Company was made previously to 4th August, 1914, and there were no proceedings for the recovery of interest or rent, taxes, insurance or other disbursements for which the mortgagors were liable in the first instance, and as to which they were in default, and unless, therefore, it be found that the Realty Company was mortgagee in possession on 4th August, 1914, s. 2 of the Act of 1915 would apply to its mortgage, and, if s. 2 be applicable, the mortgage would be regulated by *The Mortgagors' and Purchasers' Relief Act, 1920*, c. 38 of 1920, to which I shall presently refer. Upon this point I have no doubt. The company admittedly

never entered upon nor occupied nor had any actual possession of the mortgaged premises, and, even if the mortgagors were not in possession during their default, the legal fiction by which the possession of vacant land is attributed to the legal owner does not operate to confer upon the mortgagee the rights, nor to subject it to the obligations, of a mortgagee in possession. A mortgagee is not by law compelled to take possession; he must assume the management of the estate; *Noyes* v. *Pollock* (1). It was stipulated by the mortgage, as I have already pointed out, that until default of payment, the mortgagors should have quiet possession of the lands, and it was expressly provided that the mortgagee on default of payment for one month, might, on one month's notice, enter on and lease or sell the lands. No such notice was given. Whatever may be said as to the quality or sufficiency of the possession of the mortgagors and their assigns, whether adverse or not, they would appear, after the execution of the mortgage, to have continued in such possession of the whole property, including the lots in question, as it was capable of, or as it might reasonably have been anticipated that the proprietor would exercise, having regard to the purpose for which the land had been laid out, and to which it was devoted, and it was of the nature of the transaction that the mortgagors should remain in possession as they did. *Bagnall* v. *Villar* (2); *Heath* v. *Pugh* (3), affirmed, sub. nom. *Pugh* v. *Heath* (4);

The law on the subject is clear. The possession of the mortgagor is a lawful possession, and he is entitled to remain in possession until ordered to deliver up possession or until possession is demanded by or on behalf of the mortgagee; and it is also clear that a mortgagee cannot obtain an account of back rents due from the mortgagor in respect of his possession. *per* Chitty J. in *Yorkshire Banking Co.* v. *Mullan* (5).

Therefore I am satisfied that the Realty Company was never a mortgagee in possession within the meaning of the statutory exception, and that it never, by any act or proceeding, assumed that relationship to the mortgage premises by which it became the holder of them in pledge subject to account and to the infirmities of a mortgagee's title.

(1) (1886) 32 Ch. D. 53.
(2) (1879) 12 Ch. Div. 812.
(3) (1881) 6 Q.B.D. 345, at p. 359.
(4) (1882) 7 App. Cas. 235.
(5) (1887) 35 Ch. D. 125, at pp. 126-127.

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Hence it follows that the Realty Company's mortgage is not excepted from the application of s. 2 of *The Mortgagors' and Purchasers' Relief Act, 1915.*

It was expressly provided by subs. 1 of s. 4 that ss. 2 and 3 should not apply to proceedings taken for the recovery of interest, and subs. 3 provided that:

> Where default is made in payment of interest, rent, taxes, insurance or other disbursements which the mortgagor or purchaser has covenanted or undertaken to pay, the mortgagee or vendor, his assignee, or personal representative shall have the same remedies, and may exercise them to the same extent, and the consequences of such default shall in all respects be the same as if this Act had not been passed, but where such interest, rent, taxes or other disbursements are paid into court or tendered to the mortgagee, vendor, assignee or personal representative he shall not continue any proceedings already commenced by him without the order required by section 2 or by section 3, as the case may be.

This subsection regulates the remedies for the recovery of the interest, which had, by the earlier provision of the same section, been expressly excepted from the application of ss. 2 and 3. The Realty Company's mortgage was, as I have already said, in default for principal before the Act of 1915 was enacted, or became applicable, and the procedure for recovery of the principal was subject to s. 2 of that Act. It was, as stipulated by the mortgage, a consequence of default in payment of interest that the principal became payable, but the procedure for the recovery of principal was still governed by s. 2, and, in my view, that section always applied.

By s. 14 the Lieutenant-Governor in Council was empowered at any time to determine the operation of the Act, or to provide by Order in Council that it should have such limited effect as might be declared, but, subject to the operation of the Order in Council, that the Act should have effect during the continuance of the war, and for a period of nine months thereafter, unless "in the meantime" a session of the Legislature were held, in which case the Act should cease to have effect at the expiry of thirty days after the close of the session.

The Mortgagors' and Purchasers' Relief Act, 1920, assented to 4th June, 1920, provides as follows:

> 2. Where under the terms of a mortgage or agreement for sale of real property to which sections 2 and 3 of *The Mortgagors' and Purchasers' Relief Act, 1915,* apply, any payment of principal money under a mortgage or of the purchase money under an agreement of sale is overdue on the 1st day of October, 1920, such payment shall be deemed to fall due and

be payable on the day upon which the next instalment of interest will be payable after the said date, or on the 1st day of January, 1921, whichever shall be the earlier date, but this shall not apply to or affect any order heretofore made by the court under the provisions of *The Mortgagors' and Purchasers' Relief Act, 1915*, and amendments thereto so as to extend or reduce the period fixed by such order for the making of any payment upon any such mortgage or agreement of sale.

3. Subject to the provisions of section 2 and notwithstanding anything contained in section 14 of *The Mortgagors' and Purchasers' Relief Act, 1915*, or any Act heretofore passed extending the operation of the said Act, all the other provisions of the said Act shall continue in force and have effect until the 1st day of October, 1920, and from and after the said date the said Act shall be deemed to be repealed.

Now, there is no doubt that on 1st October, 1920, the mortgage of the Modern Realty Company constituted a valid charge upon the lots in question, and was overdue, both as to principal and interest, and, therefore, by the express words of the Act of 1920, the principal must be deemed to have fallen due and become payable on the day upon which the next instalment of interest was payable after that date, or on 1st January, 1921, whichever date were the earlier. The effect is to provide a statutory rule for the interpretation of the mortgage, so that, after that rule came into effect, on 4th June, 1920, payments of principal in respect of which the mortgagors were in default were postponed to the prescribed date, which became, by legislative effect, the time when the period of limitation for recovery of the principal money began to run against the mortgagee.

The interpretation is attended with some difficulty, for the mortgage had, according to its provisions, all along been overdue, but I think the enactment must have been based upon the view that the Act of 1915 stayed the operation of the Statute of Limitations as to the principal, and that it was necessary or desirable, by the Act of 1920, to provide a fresh starting point. We know that, when a legislature resorts to a method of expression whereby that is declared to be the fact which is not so, it is the duty of the court to ascertain the purpose of the enactment and the persons who are meant to be concluded. *Ex parte Walton* (1); *Hill* v. *East & West India Dock Co.* (2); *De Vesci* v. *O'Connell* (3). Here the purpose of the Act of 1915

(1) (1881) 17 Ch. D. 746, at p. 756.
(2) (1884) 9 App. Cas. 448, at pp. 455, 456.
(3) [1908] A.C. 298, at pp. 308, 314.

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was a temporary measure for the accommodation of the mortgagor, and to ensure that he should not, except subject to the provisions of the Act, be deprived of his possession, for non-payment of principal, by the exercise of the ordinary remedies of the mortgagee, if, in the opinion of the judge, time should be given by reason of circumstances attributable directly or indirectly to the war. The judge was given absolute discretion to refuse the exercise of any right or remedy, to stay execution, or to postpone any forfeiture, or to extend the time (s. 5, subs. 1, c. 22 of 1915), and the procedure, of course, involved an interference with the liberty of the mortgagee at its own volition to take proceedings for the enforcement of its security, or for obtaining possession of the mortgaged premises for default in payment of principal. In these circumstances it would be manifestly unjust that the mortgagee should, during the interval, and on account of this temporary war measure, be prejudiced by the Statute of Limitations. Consideration was not explicitly given by the Act of 1915 to the relief or protection of the mortgagee, but that seems naturally to have become a subject of attention when the Act of 1920, terminating the special and exceptional provisions of the Act of 1915, was enacted, and therefore it was that, as to overdue mortgages, a date for the payment of the principal money was substituted by the legislature for the date which had been stipulated by the mortgage. Some such provision as this seems to have been thought necessary to meet the justice of the case, and it is not difficult here to see the truth of the maxim *in fictione aequitas*. However that may be, I do not see how the mortgagee's right to foreclose can be barred by the Statute of Limitations in this case, when the principal of the mortgage is legally deemed to have fallen due and become payable not earlier than 1st October, 1920.

In the courts below the learned judges relied on subs. 3 of s. 4 of the Act of 1915, but that subsection did not interfere with the condition for recovery of principal provided by s. 2 of that Act. The mortgage company did not exercise its remedies respecting the interest while the subsection was in force, and the Act of 1915 has now given place to the Act of 1920, passed while the mortgage was a subsisting security, which declares definitely the date when the

principal should be deemed to fall due and be payable, and thus serves to establish the time from which the Statute of Limitations began to run.

In my opinion, therefore, the judgment should be reversed, and the objection raised by the purchaser and maintained by the mortgagee should be upheld as valid.

Appeal dismissed with costs.

Solicitors for the appellant: *Waldron & Bouck.*

Solicitors for the respondent Shantz: *Scellen & Weir.*

Solicitors for the respondent Hallman: *Sims, Bray, McIntosh & Schofield.*