

1929  
 \*May 31.

THE CORPORATION OF THE TOWN }  
 OF FORD CITY..... } APPELLANT;

AND

THE FORD MOTOR COMPANY OF }  
 CANADA, LIMITED..... } RESPONDENT.

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

*Assessment and taxation—Assessability of gantry crane—Assessment Act, Ont., R.S.O. 1927, c. 238, ss. 1 (h), 4 (19)—“Real Property”—Exemption of “machinery used for manufacturing”—Exception from exemption, of “machinery used for the production or supply of motive power.”*

The judgment of the Appellate Division, Ont., 63 Ont. L.R. 410, holding that the gantry crane on the respondent's premises was not assessable or liable to taxation under the Ontario *Assessment Act*, R.S.O. 1927, c. 238, was affirmed, it being held that the subject of assessment clearly fell within subs. 19 of s. 4 of said Act, and was not taken out by the exception; the movable part of the crane, if it should not be regarded as a chattel and not within s. 1 (h), was “machinery used for manufacturing,” and not “machinery used for the production or supply of motive power.”

APPEAL by the Corporation of the Town of Ford City from the judgment of the Appellate Division of the Supreme Court of Ontario (1) whereby the judgment of the Ontario Railway and Municipal Board, upholding the judgment of the senior Judge of the County Court of the County of Essex affirming the assessability or liability for taxation under the Ontario *Assessment Act*, R. S. O., 1927, c. 238, of the gantry crane on the respondent's premises, was set aside and it was declared that the gantry crane was not assessable or liable to taxation under the said Act.

*Bernard Furlong* for the appellant.

*H. L. Barnes* for the respondent.

On the conclusion of the argument for the appellant, and without calling on counsel for the respondent, the judgment of the Court was orally delivered by

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\*PRESENT:—Anglin C. J. C. and Duff, Newcombe, Lamont and Smith JJ.

(1) (1929) 63 Ont. L.R. 410.

ANGLIN C.J.C.—We are all of the opinion that the appellant cannot succeed. The subject of assessment clearly falls within subs. 19 of s. 4 of the *Assessment Act* (R.S.O., 1927, c. 238); and is not taken out by the exception. The movable part of the crane, if it should not be regarded as a chattel and not within s. 1 (h), was, in our view, clearly “machinery used for manufacturing”; and, equally clearly, it was not “machinery used \* \* \* for the production or supply of motive power”. It has, therefore, rightfully been held non-assessable.

1929  
TOWN OF  
FORD CITY  
v.  
FORD MOTOR  
CO. OF  
CANADA, LTD.

The appeal is dismissed with costs.

*Appeal dismissed with costs.*

Solicitors for the appellant: *Furlong, Furlong, Awrey and St. Aubin.*

Solicitors for the respondent: *Bartlet, Bartlet, Barnes, Aylesworth and McGladdery.*

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\*PRESENT:—Duff, Newcombe, Rinfret, Lamont and Smith JJ.