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The bowler bowls a small rubber ball into one of the holes. As soon as the ball enters a hole, all the players except the one into whose hole the ball has fallen, start to run into the circle.

The player into whose hole the ball fell quickly snatches it up and tries to hit one of the running players with it. If he succeeds in hitting a player before the player reaches the circle, this player must lose one stone. Should he fail, however, he himself must lose a stone. The player who is the last to lose all his stones is the winner of the game.

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THE OUTSIDER

May Emulate Example Of Prince

European Princesses Envious of Brothers Opportunities to Marry For Love.

The Princesses of European houses are becoming envious of the way in which the ban on morganatic alliances is being defied by their brothers.

Two recent instances of the scions of royal houses wedding commoners have aroused qualms among royal dowagers lest the princesses, with their marriage market becoming limited as princes marry outside the royal circle, assert their independence and choose husbands from the ranks of commoners.

Prince Wilhelm of Prussia defied his royal parents to marry Fraulein Salviati, a young German girl from the Rhineland, at Bonn.

The heir of the Spanish throne, the Prince of the Austrias, gave equal defiance to his father, ex-King Alfonso, in deciding to marry a Cuban sugar magnate's daughter, Senorita Sampedra-Ocejo, at Lausanne.

If princess may marry for love, why not princesses? It is easier said than done, for princesses have not the freedom of the ordinary modern young girl. They cannot go about unattended, and their speaking acquaintances are among the elect only. Moreover, the princesses are much more dependent on their parents for money than are princes.

They would not find it easy to raise money on their jewelry without being detected.

There is one Princess to whom none of these considerations matter, for she is a determined "bachelor girl." This is the Princess Ingrid of Sweden.

ETERNAL SPINSTER

"I want to be an eternal spinster," she is said to have told a friend. But it is rumored that the real reason for her preference for avoiding marriage with a royal prince is that she has lost her heart to a young Swedish aristocrat, whom she cannot be permitted to marry under the present restrictions.

Princess Juliana, heiress to the throne of Holland, is one who is not free to choose outside the royal circle, and even within it her choice of a husband is restricted, for she may not, under the Dutch constitution, marry the heir to any foreign throne.

The Princess is a shy, plump woman of 21, who loves painting in water-colors and riding her bicycle.

INDEPENDENT-MINDED

Probably the most independent-minded of Europe's princesses are the three sisters of Denmark's royal house—the Princesses Louise, Caroline and Fedora. Should any of them fall in love with a commoner, it is quite possible that they might cast their titles aside with royal conventions and marry the man of their choice.

The Princess Maria of Italy is one who has been repeatedly reported to be engaged to one Prince or another, but she is still single. A brunette, with black eyes, she is the youngest of five sisters, and resembles her mother, who was a Montenegrin princess. She is said to insist that she will marry only for love.

The Princess Eudoxia of Bulgaria seemed destined to spend her life housekeeping for her brother, King Boris, but now that he has acquired an Italian princess for a wife, there is talk of an impending romance.

But the Princess has as yet given no indication that she intends to marry, and always turns the conversation with a smile when matrimony is mentioned.

Permanent Wave

"Locks that are stiff and hard to turn should be oiled with a feather dipped in good machine oil" says a householder. If after this treatment the hair still stands on end, consult a good locksmith.

CENTRAL GUARDIAN

This column is reserved for Queen County news of local interest but advertising of a newsy nature may be inserted at 4 cents a word strictly payable in advance.

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APPEAL OF PLAINTIFF DISMISSED

Judgment Given In Case of Gardiner Vs. City of Charlottetown in Supreme Court Yesterday

The appeal of the plaintiff in the case of George W. Gardiner and another vs. the City of Charlottetown and others was dismissed yesterday by judgment of Chief Justice Mathieson in the Supreme Court, Mr. Justice Saunders concurring in the judgment.

Following is the judgment of Chief Justice Mathieson :

This is an appeal from the decision of Mr. Justice Arsenault given on the 21st day of February A. D. 1933 whereby in the case of the City of Charlottetown a Judgment of non-suit was delivered and in the case of George P. Nicholson a judgment for the defendant.

The action was brought primarily as an action in ejectment for the recovery of certain lands in the City of Charlottetown which up to the time of the sale hereinafter mentioned were severally the property of the plaintiffs. The lands, with the exception of that part described in paragraph 3 of the Statement of Claim, were sold for taxes due to the City of Charlottetown by the plaintiffs or one of them and were purchased by the defendant George P. Nicholson, who afterwards went into possession of the same by virtue of two Deeds of Conveyance executed by the Sheriff of Queens County.

The other defendants except the City of Charlottetown hold under the defendant Nicholson.

The plaintiffs or one of them claim:

"(1) Possession of the lands and premises described in paragraphs 2, 3 and 9.

(2) Mesne profits from June 1930 till the said lands and premises described in paragraphs 2, 3 and 9 are or some or one of them is delivered to the plaintiffs or one of them.

(3) A declaration that the alleged tax sales and the said conveyances from the Sheriff of Queens County to the said George P. Nicholson are null and void and that the said conveyances from the Sheriff of Queens County to the said George P. Nicholson of the lands and premises described in paragraphs 2 and 9 be set aside.

(4) A declaration that the plaintiffs or one of them are entitled to the possession of said lands and premises described in paragraphs 2, 3 and 9 or some or one of them.

(5) An account of the rents and profits of the said lands and premises described in paragraphs 2, 3 and 9 from the month of June 1930 up to the present time.

(6) Damages for entering and expelling the plaintiffs or one of them from the possession of said lands and premises described in paragraphs 2, 3 and 9 or some or one of them and keeping the plaintiffs or one of them so expelled from June 1930 up to the present time and for depreciation in the value of said lands and premises during the same period.

And the plaintiffs, or one of them, claim $10,000.00.

(7) In the alternative the plaintiffs and each of them or one of them claim that they be let in to redeem the said lands and premises described in paragraphs 2, and 9, and that the same or one of them may be reconveyed to the plaintiffs or one of them upon payment by the plaintiffs or one of them of all sums and amounts (if any) due to the said City of Charlottetown for taxes on said lands and premises and each of them, together with all interest and charges, and upon payment to the said George P. Nicholson of all amounts (if any) due to him by the plaintiffs and each of them, or either of them in respect of said lands and premises and each of them, together with all interest and charges, the plaintiffs and each of them hereby undertaking to pay all such sums and amounts together with all interest, costs and charges.

(8) An account of all such sums, interest, costs and charges due by the plaintiffs or one of them to the defendants City of Charlottetown and George P. Nicholson or either of them."

"(8) An account of all such sums, interest, costs and charges due by the plaintiffs or one of them to the defendants City of Charlottetown and George P. Nicholson or either of them."

The City of Charlottetown by K. M. Martin its attorney denies possession of the said lands or any part of them at any time and further says that after the sale by the Sheriff of Queens County to the defendant Nicholson of the lands described in paragraphs 2 and 9 of the Statement of Claim the plaintiff George W. Gardiner on the 6th day of January A. D. 1930 filed a Bill of Complaint (No. D-88) in the Rolls Court of the Court of Chancery of this Province against the City of Charlottetown and John G. McFadyen, then the Sheriff of Queens County, who by virtue of his office had sold the said lands, to set aside the said sale. By that Bill the plaintiff George W. Gardiner declared that he was the sole owner of the lands in question and verified his statement upon oath. He charges that in pursuance of an unlawful compact made between the City of Charlottetown and the assessors before and at the time of the appointment of the assessors for the three year period from 1928 to 1930 inclusive the assessors in consideration of increased salaries were to value the property of the said City far in excess of the valuations of previous years, and other wrongs and defaults including those charged in the present suit are alleged against the said City and the employees thereof.

This Bill was on the 28th day of March A. D. 1930 dismissed for want of prosecution with costs against the said George W. Gardiner. Clearly the plea of estoppel pleaded by the defendant City of Charlottetown is sustained.

In my opinion the City should never have been made a party to these proceedings. If any irregularity occurred in the proceedings, they would be chargeable not to the City but to the officers who conducted them and any proceedings for redemption should be directed to or against the purchaser and not against the corporation. So far as the possession of the lands in question is concerned the City never claimed any right thereto, nor is there any evidence that it was in possession of the same or any part thereof.

The question of possession never was in dispute in this action except as to a small strip of land described in paragraph 3 of the Statement of Claim, which does not appear to have been purchased by nor conveyed to nor in possession of the defendant Nicholson. The remaining part of the said land was purchased by the defendant Nicholson at the tax sale and conveyed to him by the Sheriff of Queens County and by his tenants Nicholson was in possession thereof when this action commenced.

The plaintiffs in their Statement of Claim assert as follows:

"11. The defendant City of Charlottetown without any power or authority purported to sell through the Sheriff of Queens County the said lands and premises described in paragraphs 2 and 9 respectively County has wrongfully and illegally due and unpaid to the said City of Charlottetown for the year 1928, and the said Sheriff of Queens County has wrongfully and illegally executed a conveyance of said lands and premises described in paragraph 2, to the said George P. Nicholson who illegally purchased same for and on behalf of the said City of Charlottetown and the said Sheriff has wrongfully and illegally executed a conveyance of said lands and premises described in paragraph 9 to the said George P. Nicholson who illegally purchased same for and on behalf of the said City of Charlottetown, the said two conveyances purporting to be made under and by virtue of said alleged sale such conveyances being executed by said Sheriff of Queens County illegally and without any power or authority."

"12. In or about the month of June 1930 the defendants City of Charlottetown and George P. Nicholson or one of them took possession of the said lands and premises described in paragraphs 2, 3 and 9 and expelled the plaintiffs and each or one of them from the possession thereof and the defendants the City of Charlottetown and Gorge P. Nicholson or one of them have wrongfully retained the possession of the said lands and premises from that time up to the present time and have received the rents and profits of said lands and premises from that time up to the present time and are now wrongfully in possession of the said lands and premises and wrongfully receiving the rents and profits thereof."

When the plaintiffs had closed their case they had proved their documentary title substantially as set forth in the Statement of Claim but they had failed to prove any of the material allegations of paragraphs 11 and 12 thereof. The case then stood thus: The City of Charlottetown disclaiming all title or interest in the said lands at any time and the defendant Nicholson admitting his possession by his tenants named in the suit as co-defendants. The plaintiffs, relying upon the evidence of title adduced, closed their case. The defendants called no witnesses.

The plaintiffs claimed that the defendants, relying solely upon a tax sale and title, had upon them the burden of proving the validity of all the proceedings which eventuated in the deeds of conveyance of the lands from the Sheriff to the defendant Nicholson. They admitted that the statements and charges made in paragraphs 11 and 12 were bad pleading but contended that they were not obliged to prove them. The trial judge held to the contrary and I think he was right.

The procedure is settled by r. 20 of O. 21 of The Rules of the Supreme Court of this Province, which reads as follows:

"No defendant in an action for recovery of land who is in possession by himself or his tenant shall be required to plead his title, unless his defense depends on an equitable estate or right or he claims relief upon any equitable ground against any right or title asserted by the plaintiff. But, except in the case hereinbefore mentioned, it shall be sufficient to state by way of defense that he is so in possession and it shall be taken to be implied in such statement that he denies or does not admit the allegations of facts contained in the plaintiff's statement of claim. He may, nevertheless, rely upon any grounds of defense which he can prove except as hereinbefore mentioned."

The equivalent Imperial Rule is r. 15 of O. 19 of the Rules of Court of 1875, which was thus interpreted by the House of Lords in Danford vs. McAnulty, reported in 8 A. C., 456. The headnote reads:

"In an action for the recovery of land a statement of defense alleging that the defendant is in possession operates (by virtue of O. 19 r. 15 as a denial of the allegations in the plaintiff's statement of claim and requires the plaintiff to prove them."

So held affirming the judgment of the Court of Appeal. Lord Chancellor Selborne in his reasons for judgment said:

"Rules of procedure ought to be clear practical directions. To tell a defendant in ejectment that it shall be sufficient to state by way of defense that he is in possession and then to hold that if he does this and no more in his statement of defense he is to be taken as admitting the truth of the plaintiff's case as alleged by him on the record is to make the rule a snare to him."

And Lord FitzGerald said:

"As a general rule the issue in ejectment never was cast on the defendant; he relied simply on his possession and was not called on to say a word until the plaintiff had proved his title and right of entry. . . . . The Plaintiff has set out his title in his statement of claim, which must culminate in showing that he had a right of entry. . . . The defendant, in saying that he is in possession, which means as against the plaintiff 'lawful possession', in effect traverses that deduction and puts in issue the whole preceding statement of title. . . . The statutable defence may be thus expanded; 'I am in possession and that is a good title against you until you prove a better title and right of entry'" . . . 'I am in possession' puts in issue by necessary implication the allegations of fact in the plaintiff's statement of claim, which are necessary to support his claim to a right of entry."

The plaintiffs in this case had proved their title which was perfectly good up to a certain time, viz. up to the time when they were dispossessed by a person claiming under an adverse title and a right of entry thereunder.

The well established rule that persons asserting title under tax deeds must prove that the procedure prescribed by the relevant statutes has been complied with does not govern this case. It certainly would apply if with such title Nicholson were plaintiff in an action against a defendant in possession.

The allegations contained in paragraphs 11 and 12 were not in the case "bad pleading." They stated substantially the facts which the plaintiffs would be required to prove in order to show that they and no the defendant had the right of possession. They could not both have it at the same time and the defendant had undoubtedly the prima facie right.

The most remarkable fact about this case is that it should ever have been brought before the Court. The plaintiffs never had even the shadow of a grievance. The valuation placed by the city assessors upon the properties was somewhat higher than for the year 1927 but it was still below the value which the defendant himself in his evidence or the trial of this cause placed upon the properties. If, nevertheless, he considered himself aggrieved, he had under the statute a right of appeal to the City Court and further to the Supreme Court against the valuation of the assessors and the rates imposed. He took no appeal but simply refused to pay unless the City would consent to accept for the year 1928 the same amount of tax as was paid by him in 1927. It was a question whether the tax should be fixed according to law or by the taxpayer. It seems to me that this action falls into the class defined as frivolous and vexatious and upon that ground alone deserves to be dismissed with costs.

The civic authorities were bound in duty to take proceedings to enforce payment. Then the plaintiff George W. Gardiner, who at that time claimed to be the sole owner of the property in question, filed a Bill in Chancery to prohibit the sale, with the result stated. That Bill was filed on the 6th of January 1930 and was dismissed on the 28th of March 1930. The sale of the lands took place on the 10th of May 1930 and the deeds to the defendant Nicholson were registered on the 17th of June 1930. During all that time it was open to the plaintiffs to redee mthe land under the provisions of the statute 3 Edward VII Cap 17, which by Sec. 5 provides that the purchaser at the tax sale takes the land "subject to the owner's right to redeem upon payment or tender to the purchaser, within two years from the registry of the deed, of the purchase money so paid by him together with interest at six per cent." But the plaintiffs would neither pay nor redeem and have now brought this action with an alternative prayer for redemption—a remedy that was always open to them.

Saving only the provisions for redemption hereinafter contained, this appeal is dismissed with costs to be paid by the plaintiffs to the defendants both of this appeal and of the Court below.

As an alternative to all their other claims the plaintiffs pray that they may be let in to redeem the said lands and premises. The statutory period for redemption has almost expired but by the order of the trial judge may be further extended. The taking of the accounts and the direction and control of proceedings relative to the redemption and reconveyance of the lands in question is referred to the trial Judge.

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