

unnecessary delays. It is always important to secure an end to litigation. It is obvious that if a bill of review to reverse a decree, on the ground of error apparent on its face, may be filed at any period of time beyond that limited for an appeal or writ of error, it would necessarily follow that an original decree might, in effect, be brought before the appellate court for re-examination, after the period prescribed by law for taking an appeal from such decree, by appealing from the decree of the circuit court upon the bill of review; and the party complaining of the original decree would in this way be allowed to do indirectly what the act of congress has prohibited him from doing directly. *Thomas v. Harvie's Heirs*, supra.

In *Gordon v. Ross*, supra, the court, in discussing the question as to the limitation of time within which suits impeaching a decree for fraud could be brought, said:

"It is just and reasonable that there should be some limitation of time within which a bill impeaching a decree for fraud, disquieting titles, reopening litigations, involving an accusation of moral turpitude, should be filed. There is the same reason for applying by analogy the statute limiting bills of review that there was, in the absence of the statute, for applying to bills of review the statute limiting writs of error. The diligent cannot be injured. Controversies will be commenced while the facts are recent, the parties probably in life, and witnesses living within the reach of the parties; and there will be less ground for apprehension that vexatious litigation is fostered. It is the diligent only the court should be active in relieving, and they have, under the statutes, ample time to vindicate their rights; and a just regard for the rights of those who are reposing on the decree requires that their diligence should be stimulated."

Decisions on this point might be multiplied. It is, however, unnecessary to dwell upon it. The complainants admit the rule, but insist that they are within the time, and entitled to have a review as a matter of right. My conclusion is that the bill of review in the present case was not filed in time. The demurrer is sustained, and the bill dismissed.

MUTUAL LIFE INS. CO. OF NEW YORK v. POWELL.

(Circuit Court, W. D. Pennsylvania. September 5, 1898.)

MUNICIPAL LIENS—REGISTRATION OF TITLE—CHANGE OF OWNERSHIP.

Under Act Feb. 24, 1871 (Pa. P. L. 126), providing for the registration of title to city real estate, and that no property so registered shall be subject to sale for taxes or other municipal claims thereafter to accrue as liens of record thereon, except in the name of the registered owner, where a deed has been properly returned for registration a subsequent filing of a plan of lots covering the same property as the property of third persons does not constitute a change of the registered owner, so as to render a municipal claim filed against the last-named persons a valid lien, there being no transfer of title shown from the grantee in the deed, and nothing of record showing that the property is the same.

Exceptions to Marshal's Return of Sale.

Willis F. McCook, for plaintiff.

J. E. & E. G. Ferguson, for exceptants Murphy & Hamilton.

BUFFINGTON, District Judge. This case concerns exceptions to a return of the marshal reporting distribution of real estate in Pitts-

burg, belonging to Mrs. Isabella C. Powell, sold on *levari facias*. The marshal applied the fund in part to two municipal liens of said city against Mrs. S. Sargeant and one against Mrs. S. J. Sargeant, to the exclusion of the mortgage given by Mrs. Isabella C. Powell to Murphy & Hamilton. The property in question, with the exception of a small part, hereinafter referred to, was originally owned by Isabella M. Negley, by virtue of a deed of James Ross, dated December 15, 1837. On May 16, 1874, in pursuance of the provisions of section 3 of Act Feb. 24, 1871 (P. L. 126), this deed was reported to the office of the city engineer of Pittsburg. Section 4 of said act, after providing for returns of descriptions of lands, then provides: "No property so returned shall be subject to sale for taxes or other municipal claims thereafter to accrue as lien of record thereon, except in the name of the owners as returned, and after recovery by suit and service of the writ on him, as in the case of a summons, *scire facias* or other appropriate writ." In *Trust Co. v. Fricke*, 152 Pa. St. 236, 25 Atl. 530, this provision was applied to the registration of a deed under the third section. It would therefore follow that municipal liens thereafter filed against this property should be in the name of Isabella M. Negley, the registered owner. But it is claimed in behalf of the city that she was not the last registered owner, and that these liens are in the name of the duly registered owner. That contention is based on the following facts: Prior to said registration, Isabella M. Negley had become, by marriage, Isabella M. Beatty. A partition of her real estate had been had in the orphans' court of Allegheny county, and on September 30, 1871, the land in question was awarded to her daughter, Isabella C. Beatty, then intermarried with James Fuller. Subsequently, Mrs. Fuller was divorced, and on December 21, 1882, married Samuel J. Sargeant, who died May 30, 1885. In 1894 she married Edwin C. Powell. On September 1, 1885, which was subsequent to Mr. Sargeant's death, a plan of lots of the property in question, and which purported to be "a plan of property in the Nineteenth ward, city of Pittsburg, belonging to S. J. Sargeant and wife," was filed with the city engineer. The plan was marked, "Approved Sept. 1, 1885. E. M. Bigelow, City Engineer," and was entered in the "Original Plan Book" of the city. Was this a registration of Mrs. Sargeant as owner? After careful consideration, we are of opinion it was not, and that the name Isabella M. Negley still continued to be the last registered name. The act in question provides the city shall keep "books of plans of the said city, * * * which shall show * * * who are the owners, with such succession of blank columns as will permit the names of future owners to be entered therein, with the dates of transfers, and with index for recording such names alphabetically * * * and the said city engineer shall keep the books in his office, so as to show at all times who are the owners of the lots on the plans; and such books shall be kept in such manner as not to destroy the evidence of ownership at any previous time, but by additions which will show the subdivisions of property, and the owners thereof, as transmissions of title may take place." Laws 1871, pp. 126, 127, §§ 1, 2. It will thus be seen the act provided a methodical system of carrying forward the evidence of ownership as changes of

ownership occurred. Now, there is no evidence whatever that any transfer was ever noted on the books from Isabella M. Negley. The partition seems never to have been reported. The date of transfer to Isabella C. Beatty by the partition was not noted, nor was any name carried to the alphabetical index. For aught that now appears, a conveyancer would find in the city record the name of Isabella M. Negley alone as the registered owner. The plan in evidence disclosed no connection between it and the Negley land, that it was a subdivision thereof, or that S. J. Sargeant and wife's land was the Negley land. The entry on the plan, "Approved," is not an entry authorized or directed by the act in question, and it cannot, therefore, be deemed evidence of registration. Assuming for present purposes that the bare plan or draft before us is a description contemplated by the fourth section, it would seem that the certificate provided by said section, and referred to at length in the tenth section, was not entered on the plan. What the significance of the entry "Approved" is—whether it is made in pursuance of the obligation upon the maker of a city plan, under the act of April 8, 1867 (P. L. 919), or other legislation or municipal ordinance—we are not called upon to inquire. Certain it is that it is not required by the act now before us, which is a mere provision for the registration and preservation of the evidence of ownership of city real estate. As to this land, therefore, the liens, not being filed in the name of the registered owner as returned, viz. Isabella M. Negley, cannot be sustained. It is conceded that a small additional portion of the property in question was conveyed to Isabella C. Sargeant by D. P. Reighard, and that she was duly registered as owner thereof on June 8, 1891. The liens in question were not filed "in the name of the owner as returned," of this particular piece, and it would be inequitable to enforce them against the present exceptants. On the whole, therefore, we are of opinion the exceptions should be sustained, and the fund in court decreed to the Hamilton & Murphy mortgage; and it is so ordered.

FIRST NAT. BANK OF HAILEY v. G. V. B. MIN. CO.

(Circuit Court, D. Idaho. June 1, 1898.)

1. CORPORATIONS—CONTRACTS BY MANAGING OFFICERS—VALIDITY.

The president of a New York corporation owning mines in Idaho, who was authorized by the by-laws to sign obligations of the company, with another stockholder, the two owning nearly all the stock, took full charge and management of the business in Idaho, which they conducted for four years, during which time no meeting of either directors or stockholders was held. During his management the president at different times executed notes, in the name of the corporation, which were paid without objection. *Held*, that notes so executed to a bank for borrowed money, which was placed to the credit of the corporation, and drawn out upon its checks, which notes were recognized by the successors in interest of the managers for two years, during which time payments were made thereon, were valid and binding obligations of the corporation.

2. SAME—ESTOPPEL TO DENY AUTHORITY OF OFFICERS.

Where the chief officers of a corporation are in reality its owners, holding nearly all of its stock, and are permitted to manage the business by the directors, who are only interested nominally or to a small extent,