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## Recent Trial Court Decisions

Denver Bar Association Record

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## *Recent Trial Court Decisions*

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*(Editor's Note.*—It is intended in each issue of the Record to note interesting current decisions of all local Trial Courts, including the United States District Court, State District Courts, the County Court, and the Justice Courts. The co-operation of the members of the Bar is solicited in making this department a success. Any attorney having knowledge of such a decision is requested to phone or mail the title of the case to Victor Arthur Miller, who will digest the decision for this department. The names of the Courts having no material for the current month will be omitted, due to lack of space.)

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### *In the County Court*

HON. G. A. LUXFORD, JUDGE

*Facts:* June 1, 1921, defendant conveyed to plaintiff a certain lot by warranty deed, warranting the premises to be free and clear of all liens and incumbrances, except an incumbrance of \$1500 due October 6, 1922. Also the general tax of 1920. At the time of the execution and delivery of the deed, there was a tax or assessment of the East Denver Park Improvement District which was a lien on said property, but which was not mentioned in the deed.

On January 12, 1925, after demand by plaintiff upon defendant to pay this tax, and the latter's refusal so to do, plaintiff paid it.

On June 18, 1925, an action was commenced in the Justice Court to recover of defendant the amount of this tax so paid by plaintiff. Upon judgment for plaintiff, defendant appealed to the County Court.

Defendant urges that the action having been commenced more than three

years after the delivery of the deed (July 1, 1921), is barred by Sec. 6397 C. L. 1921, which provides that "all personal actions on any contract not limited by the foregoing sections, or by any other law in this state shall be brought within three years after the accruing of the cause of action and not afterward".

*Held:* For appellant (Defendant below)

*Reasoning:* While there are no written pleadings, this is really an action in covenant; the six year statute of limitations not applying in an action of this kind, the all-embracing statute quoted above is applicable. *Hayden et al v. Patterson*, 39 Colo. 15; *Fisher v. Cathcart*, 3 Colo. 374.

*Barry v. Croke* No. 67781

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### *Bar Library Note*

The librarian of the Bar Association Library in the Court House states that many attorneys are becoming lax in withdrawing volumes from the Library without signing up for them in the book kept for that purpose, and that a number of valuable volumes have been lost or misplaced. All of the books of the Library are marked "Denver Bar Association Library" and any attorney having any of these volumes can easily identify them.

Members of the Bar are again requested to assist in returning these misplaced volumes and are urged hereafter to cooperate in the conduct of the Library, which is maintained at a considerable expense for the benefit of the members of this Association.

If you have any such volumes in your office, please call Mrs. Bangs, the librarian, at Main 1142, and the books will be sent for.