

FALCONBRIDGE, J.]

RE SHANACY & QUINLAN.

[March 31.

Restraint on alienation—Absolute—Devise on condition.

Petition by vendor under R.S.O., 1887, c. 112, for an order in respect of objections to title made by purchaser.

A testator devised real estate to two grandchildren (naming them), "their heirs and assigns forever," and provided as follows: "And I further will and direct, and it is an express condition of this my will and testament that none of the devisees herein . . . that is to say neither my said grandchildren nor their trustees, nor the said . . . (another devisee) shall either sell or mortgage the lands hereby devised to them."

Held, that the restraint on alienation being absolute and unqualified, was invalid.

Held, also, that the grandchildren being the only children of the testator's deceased children, could make title as heirs at law.

A. E. H. Creswicke, for the vendors.

Geo. A. Radenhurst, for the purchaser.

ROSE, J.,
In Chambers. }

[April 3.

DOHN v. GILLESPIE.

Action on foreign judgment—Defence of fraud—Perjury.

Motion by defendant by way of appeal from order of local judge at Barrie allowing plaintiff to sign judgment under Rule 739 in an action upon a foreign judgment, on the ground that the foreign judgment was obtained by fraud and perjury.

Plaintiff contended that the allegations of defendant were insufficient to bring the case within *Hollender v. Ffoulkes*, 26 O.R. 61; *Abouloff v. Oppenheimer*, 10 Q.B.D. 295, and *Vadala v. Lawes*, 25 Q.B.D. 310, nothing being charged against the plaintiff himself, but the alleged perjury being that of a witness in the foreign court.

Held, that there was no evidence to show any fraud on the part of the plaintiff or that the evidence alleged to be false was so to the knowledge of plaintiff.

Appeal dismissed with costs.

R. D. Gunn, (Orillia) for defendant.

W. H. Blake, for plaintiff.

BOYD, C]

LEWIS v. DOERLE.

[April 20.

Will—Charitable bequest—Validity of—Lands in Ontario—Foreign lands—Debts and testamentary expenses—Liability for—Realization.

A testator, domiciled in a foreign country, died in 1891, possessed of certain lands and personal estate in that country, and also of lands in Ontario. His personal estate was insufficient to pay his debts. By his will, after specific bequests and devises, he gave the residue of his estate, real, personal