

their favour by Caroline Thompson more than 40 years ago, and to have it also declared that this principal money with its forty years' interest is still a lien and charge upon the land mentioned in the power of attorney.

B. N. Davis, for the plaintiff.

G. H. Pettit, for the defendant.

HON. MR. JUSTICE LENNOX:—The power or attorney gave the attorneys or agents therein mentioned power to realize the \$333 to which they were entitled out of the rents of certain land and whether it constituted a lien upon the land or not, it was registered against it. The plaintiff claims that Isabella Bald bequeathed this claim to him, but I have not found such a bequest in the will—she bequeathed him \$1,000 to be paid when he erected a monument at the grave of her grandfather, but this he has not done. If he became entitled to this money at all his benefactress is dead for over 40 years and he knew within 30 days of the provisions of her will affecting him.

The defendants set up laches, the Statute of Limitations and other defences. The Court has in the meantime, while the plaintiff was sleeping upon his rights, if any he had, made a decree vesting the property in a certain claimant, and it has been dealt with by voluntary conveyance on several occasions. Extensive and permanent improvements have been made from time to time. The plaintiff demanded payment in 1876 but never again until he demanded it in this action.

The plaintiff understood that the money had been collected by certain executors who are dead and he does not know now whether it was in fact paid to them or not. If the property had been charged in the most formal and specific way, as for instance by a mortgage, it would have been relieved of the charge and the mortgage outlawed long ago. Can the informal instrument, now in question, have a longer life?

This is a novel action and the onus is upon the solicitor and counsel who present such a claim, rather than upon the Court, to discover how it is to be supported. I have not discovered, and counsel has not pointed out, any valid reason for a judgment for the plaintiff. There will be judgment dismissing the action with costs.