

It will be referred to the Master at Ottawa to ascertain the next of kin and make distribution according to their respective rights—meanwhile the personalty should be paid into Court after the taxation of and less the costs of the parties appearing on this motion.

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HON. MR. JUSTICE KELLY.

DECEMBER 31ST, 1913.

MCDONELL v. THOMPSON.

5 O. W. N. 654.

*Assignments and Preferences—Husband and Wife—Alleged Conveyance to Defraud Creditors—Dismissal of Action—Costs.*

KELLY, J., dismissed an action brought by a judgment creditor for a declaration that the wife of the judgment debtor was trustee for him in respect of certain lands conveyed to her, holding that the allegation had not been sufficiently proven.

Action by a judgment creditor of defendant W. S. Thompson for a declaration that his wife, the defendant Mary Stuart Thompson, was a trustee for him of certain land which had been conveyed to her and for equitable execution.

J. F. Boland, for plaintiff.

B. N. Davis, for defendant.

HON. MR. JUSTICE KELLY:—On February 27th, 1892, plaintiff obtained a judgment in the County Court of the county of York against defendant W. S. Thompson, which remained unpaid at the time the present action was instituted.

Defendant Mary Stuart Thompson, who is the wife of her co-defendant, is seized of certain lands referred to in the pleadings. Plaintiff claims that the conveyance thereof to her was made without any consideration from her, that no consideration given for the conveyance was given by or passed from defendant W. S. Thompson, that the conveyance was and is void as against plaintiff and the other creditors of W. S. Thompson, and that it was made for the purpose of defeating and delaying plaintiff and giving a preference to the transferee, Mary Stuart Thompson.

The circumstances under which this property was acquired are somewhat unusual and illustrate the manner by which, when the selling value of land is on the ascendant,