

There is no question of the law. The wife cannot sue alone or jointly with her husband for rent due the husband alone, on his own property, in which the wife has no separate interest, or for the price of goods sold, the property of her husband. And though the agreement is signed by the wife as "Mrs. Philip Mooney," there is no estoppel. To be such it must be mutual. If the landlord is not estopped, neither is the tenant: *Howe v. Scarrot*, 4 H. & N. 723. The plaintiff here is under a disability. She is neither bound nor estopped by the lease.

Counsel for the plaintiff suggested on the argument that the Married Woman's Property Act enabled the wife to sue in her own name. Quite true in relation to her separate property, but certainly not otherwise.

The question of my power to amend was argued, but as the plaintiff cannot succeed in this suit as originally laid, or as amended by her, no decision is necessary. I would say, however, that after a review of the authorities I have come to the conclusion that I had no power to allow the amendment asked.

*Blake v. Done*, 7 H. & N. 465, is no longer an authority that the Court under sec. 227 of the C. L. Proc. Act can change the name of the parties by amendment. *Garrard v. Guiblei*, 13 C. B. N. S. 832; *Clay v. Oxford* L. R. 2 Ex. 54; *Boblingbroke v. Kerr*, L. R. 1 Ex. 222; *Norris v. Beazley*, 2 C. P. D. 80, are the later authorities, determining otherwise.

It is now settled that the C. L. P. Act does not authorise the Judge at Nisi Prius to change the names of the parties plaintiff, or defendant, either by substitution, or addition.

The rule will be made absolute with costs and the verdict set aside and a nonsuit entered.

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### PRINCE EDWARD ISLAND.

SUPREME COURT.

JUNE 29TH, 1909.

#### SINCLAIR AND ANOTHER V. DEACON.

*Promissory Note—Payable at Particular Place—Presentation—Bills of Exchange Act, sec. 183—Absent Debtor Act, (P. E. I.), 1873—Non-resident Debtors—Jurisdiction.*

McQuarrie, K.C., for plaintiff.

Stewart, K.C., for defendant.