

east, in the city of Toronto, is payable to the respondents as life tenants under her will. Mrs. Clarke died on 6th November, 1878, leaving a will whereby she bequeathed all her real and personal estate to three executors in trust to sell and convert the same into money, which was to be invested by them. After providing for the payment of debts, the education and maintenance of three daughters and one son during their minority, and the payment of a legacy of \$5,000, she directed the residue to be divided equally among her four children. The share of each daughter was to be held in trust by the same trustees, or by others to be named by the daughter, she to receive the income for life, and her children the capital after her death; the son to receive his one-fourth share absolutely on coming of age. On the 1st July, 1887, after all the children had attained their majority, a deed of partition was made. The investments, which consisted of mortgages and bonds and shares, and certain cash in the hands of the trustees, were divided into four equal parts. The trustees also held the real estate now in question, in addition to certain premises in King street west, both of which had belonged to the testatrix. In the deed an undivided fourth of this property was allotted to each of the children, each share being valued at \$4,000. The former property was subject to a lease for 42 years, renewable, to expire on 1st May, 1893, the rental being £154 per annum. The children ratified the acts of the trustees and continued them in the trust. At the same time the son executed a deed to the same trustees, they to hold his share in trust for him during his life, remainder to his children. On 30th November, 1889, the applicants, with the consent of all parties, were appointed in all these trusts in the room of the original trustees. The lease of the property in King street east on its expiry was renewed for a term of 21 years at a rental of \$1,850 per annum. The lessee paid the rent for a year, but defaulted in May, 1894, and made an assignment for the benefit of his creditors. The applicants took possession of the land and buildings, but for a number of years were unable to obtain an adequate rental or make a sale. The lessee and his assignee made over to the applicants all their rights in the lands and buildings. In November, 1902, a sale was effected for \$47,500.

A. Fasken, for the applicants.

W. R. Riddell, K.C., for the life tenants, contended that they were entitled to a portion of the purchase price, because such a large price was obtained only by a long delay in selling, during which time they obtained a precarious and inadequate income, and that the \$47,500 was made up in considerable