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No. 21

HIGH COURT DIVISION.

LENNOX, J.

JULY 24TH, 1920.

RE BILLETT AND DAVIDSON.

Deed—Conveyance of Land to Husband and Wife—Construction—Grantees Described as Joint Tenants and Parties of Second Part—Grant to and Habendum to Parties of Second Part without More—Death of Husband—Wife Taking Whole Estate by Survivorship—Conveyancing and Law of Property Act, R.S.O. 1914 ch. 109, sec. 13—Exception—Declaration under Vendors and Purchasers Act.

Application by Frances Billett, purporting to be owner in fee of certain land, for an order, under the Vendors and Purchasers Act, declaring that she can make a good and valid conveyance thereof.

The application was heard in the Weekly Court, Toronto.

J. M. Bullen, for the vendor.

J. R. Code, for the purchaser.

LENNOX, J., in a written judgment, said that the vendor claimed under a deed of conveyance of the land in question, dated the 31st October, 1919, wherein William Pilgrim was named as grantor and "Charles John Billett . . . and Frances Billett, wife of the said John Billett, as joint tenants," were named as grantees, and described as parties of the second part. The grant was "to the parties of the second part in fee simple," and there was nothing about joint tenancy in the habendum. Charles John Billett died on the 15th February, 1920. Frances Billett claimed to be solely entitled as the surviving joint tenant.

Before the Married Women's Property Act and the Conveyancing and Law of Property Act, a deed to a husband and wife conveyed an estate having some of the characteristics of a joint tenancy; they took by entireties, and each was deemed to be