

wife's property under his will, and it is to be presumed, kept down the interest upon the mortgage during his life tenancy. By the clause in question he charges all his real estate, including leasehold property, with the payment of the mortgage upon the wife's property, acknowledging that the mortgage was executed by the wife at his request to secure the debt due by him. The question submitted is, is the estate of Rebecca Barrett a creditor of the estate of the testator for the amount of the mortgage, or is the only effect of the charge and acknowledgment that the real estate of the testator is charged with the payment thereof? The wife during her lifetime was a creditor; upon her death her estate became and still is a creditor; the husband by the will acknowledges the debt, and in addition charges it upon his real estate.

This may be so declared. Other questions may arise in connection with this sum, but counsel stated that they were not yet ripe for determination, so that the present declaration will be limited as above indicated. Costs of all parties will come out of the estate.

HON. MR. JUSTICE MIDDLETON. JANUARY 27TH, 1914.

COWLEY v. SIMPSON.

5 O. W. N. 803.

*Prescription — Evidence of — Action to Recover Possession of Lands
Agreement — Corroboration.*

MIDDLETON, J., *held*, that plaintiff was entitled to the ownership of certain lands in the possession of the defendant who was claiming under an alleged possessory title.

Judgment of GUNN, Co.C.J., affirmed.

Appeal by the defendant from the decision of Judge Gunn, to whom this action was referred for trial. The action was for the recovery of possession of certain lands.

J. E. Thompson, for the defendant.

W. J. Code, for the plaintiff.

HON. MR. JUSTICE MIDDLETON:—Since the argument the cross-examination of the witness Desormier, upon his affidavit, has been put in. The affidavit and cross-examina-