

since sold the defendant her share of this estate and the account between him the defendant, and Walter Ross in his said capacity which is set out fully in the plea show only a balance of \$286.56 due by defendant. He then proceeds to aver that Elizabeth Seid, mother of the plaintiffs, was during her life time usufructuary legatee of her husband, the plaintiff's father, and executrix of his will, and as such in possession of his estate. That she gave a power of attorney to Wm. Jos. Ross, to manage and administer the property, and that he entered into partnership with the defendant in the brick making business. The terms of this partnership are then quoted from the deed; and then another partnership of subsequent date between the same parties is alleged, and its terms also are fully set out, and then the defendant avers that under these several deeds, the balance due by him to the plaintiffs would only be as before pleaded—\$286.56—and no more. That the defendant has paid for the plaintiffs and at their request \$7,446.24 which they have promised to pay him, and that he has tendered to them through their agent and attorney the \$286.56, which he again offers with his plea, and asks that the action be dismissed if they do not choose to take it. To this plea the answer in law is filed, which gives rise to the present inscription, and upon which the parties have been heard. The pretensions of the answer in law are that the amounts set up against the plaintiff's demand for rent are not *clairs et liquides*, and that if they were—they can only be the subject of a direct action against Walter Ross, who, it is alleged, was not the legal authorised representative of the estate. Now, this is a matter of fact, to be gathered from the deeds and might be the subject of a special answer no doubt;—but if made the subject of an answer in law or demurrer, must of course depend upon the sufficiency of the allegation, and not the truth of the fact. Whether Walter Ross's acts are to bind the plaintiffs or not, the averments in the plea are ample sufficient, and the question whether those averments are borne out by the facts does not arise under this demurrer. The point secondly raised that these amounts are not *clairs*