note for the four quarterly payments of 1874, by the terms of which the policy was to be null and void if the note was not paid at maturity.

Held, under the circumstances more fully set out in the case, that the plaintiff was entitled to recover the amount of the policy, the death of one of the joint lives having occurred during the extended period; and that the non-payment of the note could not be taken advantage of so as to wholly deprive the plaintiff of such right of recovery, but its effect was merely to place the plaintiff in the same position as if the note had not been given.

F. E. Hodgins, for the plaintiff.

McCarthy, Q.C., for the defendants.

VACATION COURT.

Osler, J.] [June 8.

Armour v. Rogers.

Husband and wife — Tort of wife — Whether husband a proper party to action.

Held, that in action for a tort committed by a wife during coverture, the husband is not a proper party, but the wife must be sued alone.

Ogden, for the plaintiff.

Creelman, for the defendant.

Toronto Hospital Trustees v. Denham.

Ejectment—Lease of land—Sale of buildings thereon—Ejectment for breach of covenant not to assign, &c.—Recovery limited to land, and not to include buildings.

The plaintiffs, the owners in fee of certain lands on which certain buildings, &c., were erected, by an indenture of lease, dated 30th October, 1876, leased it for 21 years to one B. The lease contained the covenants to pay rent and not to assign or sublet without leave, with a proviso for re-entry on non-payment of rent, or non-performance of covenants. By a deed, of this same date, which after reciting the preceding lease, and an agreement of B. to purchase the buildings, &c., in and upon the said lands and premises, the plaintiffs for the consideration of $1,400, conveyed to B. the said buildings, &c. B. then gave a mortgage of the land to J. H. & E. H. Afterwards B. assigned the lease to C.; C. assigned to G. H. H., and G. H. H. assigned to M. This last assignment was without the plaintiffs' consent. The plaintiffs thereupon brought ejectment against the defendant, who was in possession of the buildings, &c., under a lease thereof from B., for the forfeiture occasioned by the said assignment, as also for non-payment of rent. The plaintiffs obtained a verdict. Subsequent thereto, and after motion in term, the plaintiffs obtained a decree in Chancery, upon bill and answer, to which the now plaintiffs were plaintiffs, and G. H. H., J. H., E. H., and M., were defendants, by which the deed from the plaintiffs to B., so far as it conveyed the land on which the buildings stood was a mistake, and the deed should be rectified so as to pass only a chattel interest in said buildings, &c., and no estate whatever in the land.

Held, that the plaintiffs were entitled to retain their verdict; but, under the circumstances, their recovery must be limited to the land alone, and would not include the buildings, &c., thereon; and, therefore, that they could not enter in said buildings, &c., or remove the defendant therefrom.

H. Gamble, for the defendant.

Foster, for the defendant.

SELECTIONS.

OWNERSHIP OF LANDS USQUE AD MEDIUM FILUM.

A question of more than ordinary novelty was raised in the case of *Leigh* v. *Jack*, 42 L. T. Rep. N. S. 463, which came before the Court of Appeal on appeal from the Exchequer Division. The question there raised was, whether the presumption of law that the property in the soil of a road belongs *usque ad medium filum viæ* to the adjoining proprietors arises before the road has been dedicated to the public by being used as a highway. The action was brought to recover a piece of waste land in the borough of Liverpool, which was in the occupation of the defendant. The plaintiff was tenant for life under the will of