

BRITTON, J., in a written judgment, after stating the facts, said that the evidence shewed conclusively that the deceased wife aided largely in the hotel business carried on by the defendant in the city of Toronto; but also that she was liberally and generously dealt with by him. It appeared that the deceased had saved a considerable sum of money; she had a large sum to dispose of at her death; and on one occasion her husband allowed her to take \$5,000. It did not appear that any question arose between the husband and wife as to partnership or that there was any business arrangement between them.

It would require evidence of a most cogent character to establish a partnership between husband and wife who had always lived amicably together without any known arrangement between them. Where business is being carried on by husband and wife in such a way that the public doing business with the concern would not know who was the proprietor, the presumption, if any, would be that the business was that of the husband; and, in the absence of any proof to the contrary, an attempt on the part of the wife to establish ownership as a partner would fail.

In the present case there was no proof to the contrary of what the defendant asserted.

Upon the evidence, the learned Judge was unable to find that the wife was entitled to an undivided half interest in the land purchased by the defendant at or near Cooksville; nor that she was entitled to a half share of the profits of the hotel business carried on in Toronto; nor that she had lent the defendant \$2,200 and \$500.

The learned Judge was unable to hold the defendant liable as trustee for his wife of any money or property, or that the defendants were entitled to charge the defendant as trustee in regard to either property or money.

*Action dismissed without costs.*

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MIDDLETON, J.

DECEMBER 8TH, 1917.

**\*KINGSMILL v. KINGSMILL.**

*Husband and Wife—Gift of Furniture in House by Husband to Wife  
—Devise of House to Wife for Life—Bequest of Personal  
Property to Son—Failure to Prove Gift of Chattels—Evidence  
—Intention.*

Action to recover personal property in a house and premises in the city of London.