

# The Ontario Weekly Notes

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## HIGH COURT DIVISION.

SUTHERLAND, J.

JULY 31ST, 1915.

### RÉAUME v. COTÉ.

*Limitation of Actions — Possession of Land — Conveyance to Partners—Death of Partner—Acts of Ownership by Survivor—Payment of Taxes—Lease of Land—Statute Running against Heirs of Deceased Partner—Limitations Act, R.S.O. 1914 ch. 75, sec. 12—Declaration of Title—Costs.*

Action for a declaration that the plaintiff was on the 17th September, 1914, entitled to the fee simple of a lot of land in the town of Sandwich, containing three-quarters of an acre.

The action was tried without a jury at Sandwich.

J. Sale, for the plaintiff.

J. H. Rodd, for the defendants Aggie Coté and Jennie Réaume.

A. St. G. Ellis, for the infant defendant, Dorothea Williams.

SUTHERLAND, J., after dealing with the facts, said that the plaintiff, who was asserting a title by possession, was not a trespasser. She was entitled, through her husband, Josiah Réaume, to an undivided one-half interest in the property, and had also acquired the interests of certain of the heirs of Benjamin Réaume. The land had been conveyed by the patentee to Benjamin and Josiah, and they had as partners carried on a milling business upon it. The plaintiff was invoking the Limitations Act as against other heirs claiming to be interested in the land, but who, for a much longer period than that necessary to constitute a statutory bar, had in no active way asserted any claim or title or done any act to preserve any such.

Josiah, during his lifetime, and the plaintiff, after his death and up to the time of the commencement of the action, were asserting and claiming ownership by paying the taxes and leas-