

divided equally amongst the children in the same way and subject to the same trusts and declarations as the personal estate. The period of vesting is the same, i.e., on the death of the widow. See *McDonell v. McDonell*, 24 O. R. 468; *Kirby v. Bangs*, 27 A. R. 61. There being an express direction to the trustees to divide the trust moneys arising out of the sale and conversion of the personal property and real estate among the children in equal shares on the death of the widow, and that direction not having been carried out, it is the duty of the Court to direct the distribution to be made now. All the testator's estate has been got in and converted, except a balance due on the claim against the Cooper & Smith partnership estate, which balance is partly secured by a mortgage on a house and land in the city of Toronto.

Order accordingly. Costs out of estate.

ROBERTSON, J.

JUNE 28TH, 1902.

TRIAL.

GREISMAN v. FINE.

*Title to Land—Registered Title—Appurtenance.*

Action to recover possession of about 175 square feet of land, part of the premises known as street No. 80 on the west side of Chestnut street, in the city of Toronto. The defendant pleaded the Statute of Limitations, but did not offer any evidence under it, and the question was one of paper title only.

N. F. Paterson, K.C., for plaintiff.

R. G. Smyth, for defendant.

ROBERTSON, J., held that the title is clearly in the plaintiff except as to the rights acquired by defendant to continue as an "appurtenant" to his premises the occupation of the small piece on which his kitchen is erected. Judgment accordingly for the plaintiff with costs.

MACMAHON, J.

JUNE 26TH, 1902.

TRIAL.

JOYCE v. JOYCE.

*Partition—Sale—Verbal Agreement to Sell Interest in Land—Statute of Frauds—Part Performance—Acquiescence—Arbitration or Valuation—Notice.*

Action for partition or sale of certain land.