

in possession of property belonging in equity to his wife for her separate use, he is a trustee of it for her."

The Statute of Limitations did not apply.

The plaintiff was therefore entitled to a half share in these moneys. On the admitted facts, there could be no presumption of a gift to the husband of the income of the plaintiff's share, to be used for their joint benefit, or that he was otherwise entitled to such income. The plaintiff should therefore recover also interest from the time her husband so received these moneys.

The plaintiff's costs of the action should be paid by the defendants.

MASTEN, J.

JANUARY 24TH, 1920.

HEPWORTH BRICK CO. v. LABERGE LUMBER CO.

*Sale of Goods—Action for Price—Opportunity for Inspection—Place of Inspection—Sale by Sample—Defective Condition of Goods—Defects Ascertainable by Inspection—Attempted Rejection after Acceptance—Cross-claim for Damages for Inferiority in Quality—Reference to Ascertain Damages.*

Action to recover the purchase-price of 61,300 sand lime pressed bricks sold and delivered by the plaintiffs to the defendants in July, 1919.

The action was tried without a jury at Owen Sound.

W. H. Wright, for the plaintiff.

D. Inglis Grant, for the defendants.

MASTEN, J., in a written judgment, said that the plaintiffs alleged that the bricks were in fact inspected and accepted at Hepworth, and sued for the whole price according to the terms of the contract; in the alternative, they set up that, the contract being for delivery f.o.b. cars at Hepworth, inspection must take place there or not at all, and that the defendants could not reject on arrival of the bricks at Espanola.

The defendants contended: (1) that the purchase was by sample, and that the bricks did not accord with the sample; (2) that the purchase was of "face brick," that most of the bricks supplied were not reasonably fit for use as "face brick," and consequently none could be used; (3) that their agent did not inspect and accept at Hepworth, and that they were not bound by the rule requiring inspection by the purchaser at the time and place of delivery by