

this, without something more specific, I cannot give any meaning to the expression "there never was any legal delivery of the deed;" and most of the statements founding this application, or replying to the plaintiff's affidavit, are of this hazy character. This is not unimportant, if the question of the plaintiff's real estate in Ontario had to be considered. But I have come to the conclusion that evidence is decidedly in favour of the contention that the plaintiff resides, and is, permanently residing in Ontario. He is a British subject, so far as appears, he has no interests or property outside, he has held real estate here for nearly ten years, his wife is here, his home is here, for the time being, at all events, and he swears that he intends to permanently reside here.

There will be an order setting aside the order appealed from.

The defendant will have 6 days for delivery of statement of defence.

Costs here and below to the plaintiff in the cause.

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HON. MR. JUSTICE BRITTON.

MARCH 21ST, 1914.

MOORE v. STYGALL.

6 O. W. N. 126.

*Cancellation of Instruments—Deed—Voluntary Conveyance—Grantor Aged Woman—Lack of Independent Advice—Improvidence—Lack of Mental Capacity—Undue Influence—Deed Set Aside.*

BRITTON, J., set aside a voluntary deed of certain lands from a widow eighty-six years of age, to her nephew, holding that plaintiff at the time of the execution of the deed, had no independent advice, that she did not appreciate the effect, nature and consequence of her act and that the transaction was an improvident one.

*Kinsella v. Pask*, 28 O. L. R. 393, followed.

Action brought to set aside a conveyance of part of lot A. on the east side of Dunlop street in the village of Bridgeburg. Tried at Welland without a jury.

C. H. Pettit, for plaintiff.

H. A. Rose, for defendant.