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No. 8

APPELLATE DIVISION.

SECOND DIVISIONAL COURT.

APRIL 30TH, 1918.

*McLEOD v. McRAE.

Limitation of Actions—Action for Recovery of Land—Defence under Limitations Act, R.S.O. 1914 ch. 75—Application of secs. 5, 6 (4)—Land in State of Nature—Acts of Possession—Defendant in Position of Bailiff for Absent Owner—Relationship—Defendant in Loco Parentis to Plaintiff.

Appeal by the plaintiff from the judgment of LENNOX, J., who tried the action without a jury, dismissing it with costs.

The action was brought to recover possession of the part of lot 9 in the 1st concession of the township of Cumberland, lying north of the highway and bounded by the Ottawa river.

The defendant admitted the plaintiff's paper-title, but set up the Statute of Limitations, R.S.O. 1914 ch. 75.

The appeal was heard by MULOCK, C.J. Ex., CLUTE, RIDDELL, and SUTHERLAND, JJ., and FERGUSON, J.A.

C. J. Holman, K.C., for the appellant.

G. F. Henderson, K.C., for the defendant, respondent.

CLUTE, J., in a written judgment, set out the facts and referred to the evidence, which he said fell very far short of shewing such possession as would defeat the admitted paper-title.

He cited the Limitations Act, R.S.O. 1914 ch. 75, secs. 5 and 6 (4); *McConaghy v. Denmark* (1880), 4 S.C.R. 609, 632, 633; *Sherren v. Pearson* (1887), 14 S.C.R. 581; *Stovel v. Gregory* (1894), 21 A.R. 137.

The lands in question were separated from the south portion

* This case and all others so marked to be reported in the Ontario Law Reports.