

Although this assignment was voluntary, it was binding and effectual, because, dealing with property incapable of legal transfer, the assignor did everything in his power to make a complete assignment, and left undone nothing material thereto. As against him, there was a complete gift to his wife of his share in the estate of his father: *Harding v. Harding*, 17 Q. B. D. 442, 445; *Lee v. McGrath*, 10 L. R. Ir. 45, 49. This assignment, made in 1893, was not within the scope of . . . R. S. O. 1887 ch. 122, sec. 6, which was restricted to "debts and choses in action arising out of contract." It stands, therefore, as an equitable assignment of a chose in action incapable of legal transfer, for which neither writing nor any particular form of words is requisite, provided the intention to make a present transfer is satisfactorily proven: *Trusts Corporation of Ontario v. Rider*, 27 O. R. 593, 24 A. R. 157. As the assignment . . . relates to property over which courts of equity had special jurisdiction, the assignee could sue in such courts in his own name.

The title of defendant being, therefore, complete, it only remains to determine whether she preserved her priority as against plaintiffs, who hold subsequent assignments for value, of which formal notice was duly given to the executors, in whose hands the fund lay. Mrs. Thompson swears that in 1895 or 1896, shortly after she had separated from her husband, she, accompanied by her brother, called on William Bryan, one of the executors, and advised him of the fact that her husband had transferred his interest in the estate to her. Her brother fully corroborates her statement. William Bryan admits that Mrs. Thompson and her brother called on him and spoke about "her right to this money," but he cannot remember whether this was prior or subsequent to his receipt of notice of the claim of plaintiffs, of which he was notified early in 1897. He is, however, quite certain that Mrs. Thompson did not inform him that she held an assignment from her husband. Upon this conflicting evidence the finding must be in favour of defendant, whose positive testimony is strongly and directly corroborated by that of her brother. Having gone to Mr. Bryan for the express purpose, as she and her brother both say, of imparting to him information as to the assignment which she held, their recollection of what was actually said is more likely to be accurate and reliable than his. Since