

The learned Chief Justice, after setting out the facts and circumstances, said that it seemed to him impossible to contend, with any hope of success, that such a transaction as that between the parties—the release of the plaintiff's interest in a farm under the will of the defendant's mother—could stand if rightly attacked.

Reference to *Turner v. Collins* (1871), L.R. 7 Ch. 329; *Hoghton v. Hoghton* (1852), 15 Beav. 278.

The second question was, whether the plaintiff was precluded from having relief in this Court, by reason of her delay in bringing this action. Within a few hours after the deed was executed, she knew its meaning and effect; and was, quite naturally, much dissatisfied with it; yet this action was not commenced until about 12 years afterwards.

The main reasons for the delay were, that the plaintiff's foster-mother said that she would take up the matter with her brother and nephew in her (the plaintiff's) behalf, and that the plaintiff's position in life, and especially in the Forfar family, upon which she was so largely dependent, and which in turn was so largely dependent upon the Waltons, gave her no opportunity for entering into litigation with the latter. She was not at any time quite her own mistress—quite independent. There was never an abandonment of her dissatisfaction.

The plaintiff's right to the property under the will has not yet arisen, and it may never arise; and no substantial prejudice has been caused to the Waltons by the delay. The utmost that can be said against the plaintiff is that in the meantime Mrs. Forfar had died, and so any testimony she could have given is lost; and that all memories get more or less rusty in 12 years. However, if all the evidence, except the defendant's own testimony, were eliminated, the plaintiff's right to relief would be proved.

Stale claims are always—and rightly—in disfavour, but once they are clearly established, and when the delay has caused no substantial prejudice to any one, there is no reason why they should not be enforced.

If the plaintiff had only an equitable right, that right would not be counterbalanced by anything that would make it inequitable to give effect to it now; the defendant will not be obliged to give up anything but the mere piece of paper; he has enjoyed nothing under it, nor done anything on his faith in it; and the mere lapse of 12 years is not in itself enough; if equity were to