

The defendants had satisfactorily proved that the statements of which they complained were false; that they were material; that they (the defendants) had relied upon the statements to their injury; and the only proper inference upon all the evidence was, that the statements were made with intent to deceive.

The action should, therefore, be dismissed with costs, and the defendants should have judgment upon their counterclaim with costs. The money realised from the sale of the farm should be fixed as the amount of the damages resulting from the fraud.

*Appeal allowed.*

FIRST DIVISIONAL COURT.

FEBRUARY 21ST, 1916.

\*RE TAYLOR.

*Will—Construction—Devise—“Issue”—“In Fee”—Life Estate—Remainder—Rule in Shelley’s Case.*

Appeal by the executors of George Mackenzie Stewart from the order of RIDDELL, J., ante 271.

The appeal was heard by MEREDITH, C.J.O., GARROW, MACLAREN, MAGEE, and HODGINS, J.J.A.

R. S. Cassels, K.C., for the appellants.

A. R. Clute, for the respondents, the husband and children of Marietta A. Weller.

MEREDITH, C.J.O., delivering the judgment of the Court, said that the question for decision was as to the estate which Marietta A. Weller took under the will of George Taylor in certain land, the appellants contending that it was an estate tail, and the respondents that it was a life estate. The devise was to the testator’s two daughters Marietta and Jennie “to have and to hold to the use of them . . . for and during the terms of their natural lives as tenants in common, and after their decease the undivided share of each to the use of their respective issues in fee, so that the child or children of each will take his, her, or their mother’s share, but in case . . . Jennie . . . should die without issue then I give and devise her share thereof to the children of . . . Marietta . . . alone, share and share alike.”

Reference to King v. Evans (1895), 24 S.C.R. 356; Van Grutten v. Foxwell, [1897] A.C. 658.

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