

is not "voluntary," the transfer in question will answer the test abundantly.

The nature of the transaction was investigated in *Brown v. Toronto General Trusts Corporation*, 32 O. R. 319.

Upon the trial of that case, and upon the same evidence as is now relied on, I found as a fact that there was well proved an agreement between the deceased and his niece Amanda Brown whereby they were to combine their chattel property and their personal energies in the working of the farm used by the deceased, and its belongings, upon a mutual obligation that the survivor should become possessed of the whole personally resulting from this co-operation of goods and labour.

In pursuance of this agreement, which had existed and been acted on in good faith for over 30 years, the deceased handed over to her just before his death the indicia of title to moneys and other property such as might be the subject of a *donatio mortis causa*. And I found that what was done was sufficient to establish her right to that property in the aspect of a mere gift, but beyond that I gave effect to the agreement by declaring her entitled to other chattel property falling under the above agreement to the amount of several hundred dollars. The moneys bestowed amounted to over \$6,000. As against the claim of the Crown for succession duty, it is competent for Amanda Brown to avail herself of every ground of exemption afforded by the law. She is not, in other words, as to the present claim estopped by the form of the judgment in the case of *Brown v. Toronto General Trusts Corporation*, but may rely on other aspects of the real liability which existed between her and the deceased.

Now, while the handing over of the \$6,000 moneys, &c., may be rested on the mere *donatio mortis causa*, it is in truth much more than this; the bestowment was not a matter of bounty—it was, as I have declared in giving reasons for the judgment in *Brown v. Toronto General Trusts Corporation*, a matter of obligation binding upon the deceased and his estate. If it happened, as it did, that the uncle should predecease her, then this personal estate did not pass beneficially to his next of kin or legal representatives; it became in that event potentially the property of his niece, and her right to it has been vindicated by the Court as against the administratrix. She did not succeed to his personal estate by any testamentary or intestate right—by no voluntary disposition on the part of the deceased and by no legal transmission as upon an intestacy—but by virtue of a valid and long standing contractual obligation, which made her more than a general creditor in respect to this personalty.