

was not determined, it being assumed for the purposes of the decision that it had not elapsed.

*C. F. W. Atkinson*, for executors. *H. L. Drayton*, for charitable devisees and legatees. *Shepley, K.C.*, *C. P. Smith* and *Backhouse*, for other legatees.

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Falconbridge, C.J.K.B., Anglin, J., Magee, J.]

[May 27.

GLASCOTT v. CAMERON.

*Mortgage—Interest—Payment—Advances by agent.*

C. stated as agent for the plaintiff in investing money for her upon a mortgage, and as agent for the owners of the equity of redemption in collecting the rents of the mortgaged land until July, 1904, after which he collected these rents as agent for the plaintiff, qua mortgagee in possession. The rents proving insufficient to pay the plaintiff's interest in full, C. nevertheless remitted to the plaintiff half-yearly the full amount of the interest accrued, making up the deficiency out of his own pocket.

*Held*, upon the evidence, that the advances made by C. were not intended to be payments in satisfaction of the plaintiff's claims for interest upon her mortgage, or to discharge the mortgaged premises therefrom, and, therefore, that the plaintiff, in proving the amount due upon her mortgage, was entitled, as against a second mortgagee, to include the sums paid by C. for interest out of his own pocket.

*Simpson v. Eggington* (1855) 10 Ex. 845 followed.

Decision of MEREDITH, J., reversed.

*H. T. Beck*, for plaintiff. *J. H. Denton*, for defendant Lyttle.

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Teetzel, J.]

RE ROBERTS AND BROOKS.

[May 31.

*Will—Construction—Executors—Power of sale—Devolution of Estates Act.*

The testatrix in the first part of her will gave her whole estate, real and personal, subject to the payment of debts, to her stepson and his wife and their three children, "to be divided and shared equally between them." She then proceeded: "It is my will that my personal effects that have not been disposed of during my lifetime shall be kept in the family, excepting any furniture . . . but the real estate if I have not disposed of it shall