

Ontario Fidelity Mines Co., Ltd., that company is not a party to the contract.

The judgment will be with costs. This is not a case for *lis pendens*. The plaintiff will have this withdrawn or dissolved.

---

HON. MR. JUSTICE MIDDLETON.

JUNE 16TH, 1914.

HERRIES v. FLETCHER.

6 O. W. N. 587.

*Contract—Alleged Agreement to Devise Farm—Services Rendered by Expectant Devisee—Remuneration—Action to Enforce Agreement against Executors—Evidence—Corroboration—Intention of Testator—Failure to Prove Contract—Statute of Frauds—Quantum Meruit—Alleged Gift of Chattels and Promissory Note—Possession not Changed—Costs.*

MIDDLETON, J., *held*, that a mere expression of intention by the testator in his lifetime to devise property was not binding; that there must be a contract and that the Statute of Frauds requires said contract to be in writing.

*Maddison v. Alderson*, 8 A. C. 467; *Cross v. Cleary* (1898), 29 O. L. R. 842: followed.

*Held*, that a gift of personalty made by the testator during his lifetime failed since there was not a change of possession.

*Cochrane v. Moore*, 25 Q. B. D. 57, followed.

Action tried at Hamilton on 11th June.

Action against the executors of John Fletcher, deceased, for specific performance of an alleged agreement between the plaintiff and the deceased.

G. Lynch-Staunton, K.C., and J. G. Farmer, K.C., for the plaintiff.

S. F. Washington, K.C., for the defendants.

HON. MR. JUSTICE MIDDLETON:—The plaintiff was the housekeeper of the late John Fletcher, who died on the 27th of August, 1913, possessed of two farms and considerable personal property. Although she was paid wages during the testator's lifetime, at the rate of twelve dollars per month, the plaintiff claims that there was an agreement by which she was entitled to receive his homestead farm at his death. There are some minor disputes with reference to some alleged gifts of chattels and a promissory note.