

was entitled to the whole for her life, and that he was entitled to the whole after the widow's death. On the 24th December, 1887, Beaque Rupert bought the right of the wife of plaintiff to the south half of the south-west quarter, paying her \$150 for the same. The plaintiff joined in that conveyance, which contained a recital to which I will refer later. The defendant Beaque Rupert then went into possession of the part so purchased, and the plaintiff and his wife continued in possession of the north half of the south-west quarter, the part now in question, until the death of plaintiff's wife, and plaintiff is still in possession.

What was the position of the matter on 24th December, 1887? The plaintiff was in actual visible possession of it all. Upon the evidence I think he was occupying, supposing his wife had a life interest in all. However it came about, I think plaintiff and his wife and the defendant Beaque were all under the mistaken notion that Beaque had no right to possession until after the death of the wife of plaintiff. Could the plaintiff under such circumstances acquire a title by possession to the undivided half of the defendant? I think he could. I must find upon the facts that the possession was without any express license or authority from the defendant, and that nothing was done to amount to an entry by Beaque Rupert as one of the tenants in common.

It is a fair inference from the evidence that Caroline Myers never intended to hold any more than her husband owned of the land in question—and for her life only, under the will of her husband. The plaintiff, her husband, never until shortly before the commencement of the present proceedings, intended to hold more than his wife held, and only for her life—but they were both in possession, using all, as their own, for all the years from 1873, the plaintiff exercising control, having the property assessed to him, paying taxes upon it, and holding it to the exclusion of the defendant.

As the doctrine of adverse possession is put an end to by the statute, and as sec. 11 makes the Act applicable in favour of one tenant in common in possession, against another who is out of possession, I must find that Caroline Myers, if she had not married but had remained alone upon this land, would before the 24th December, 1887, have acquired a title by possession as against the defendant to the one undivided half. If Caroline Myers, had she remained single, would have acquired title by possession, it follows, I think, that the plaintiff, being in actual visible possession and control from 1873 to 1887, acquired title: see *Darby & Bosanquet* on the Statute of Limitations, pp. 275, 353, 357; and *Cully v. Tay-*