

The Ontario Weekly Notes

VOL. XV. TORONTO, NOVEMBER 15, 1918, No. 10

APPELLATE DIVISION.

SECOND DIVISIONAL COURT.

NOVEMBER 7TH, 1918.

MENZIES v. BARTLET.

Contract—Promise of Deceased Mortgagee (Aunt of Mortgagor) to Cancel Mortgage in Consideration of Services and Goods Supplied—Statute of Frauds—Action against Administrator with Will Annexed—Evidence—Legacy Given to Mortgagor—Findings of Trial Judge—Appeal—Costs—Payment for Goods Supplied.

An appeal by the plaintiff from the judgment of FALCONBRIDGE, C.J.K.B., ante 8, dismissing the action without costs.

The appeal was heard by MULOCK, C.J. Ex., CLUTE, SUTHERLAND, and KELLY, JJ.

G. H. Sedgewick, for the appellant.

A. R. Bartlet, for the defendant, respondent.

THE COURT varied the judgment below as follows: The defendant expressing his willingness to pay the plaintiff \$82.25 for goods supplied by the plaintiff to Margaret Menzies, deceased, it is declared that her estate is indebted to the plaintiff in that amount, and the defendant is directed to pay that amount to the plaintiff. In other respects the judgment is affirmed and the appeal dismissed with costs.