

MORLEY V. FIDELITY TRUST CO.—SUTHERLAND, J.—JAN. 9.

Deed—Conveyance of Interest in Land—Deed Said to be Subject to Oral Agreement—Failure to Prove—Conveyance to Trust Company—Validity—Administration of Estate.—Action by John A. Morley against the trust company, executors of the will of the plaintiff's deceased mother, Mary Morley, and against the plaintiff's two brothers Frederick and James Morley, for a declaration that the plaintiff, as one of the heirs at law of his father, was entitled to an undivided share or interest in a certain parcel of land owned by his father, who died in October, 1897, and in the remainder of his father's estate, and to set aside as fraudulent and void a conveyance of the land by Mary Morley to the trust company, and for an account of rents and profits, and for administration of his father's estate. The action was tried without a jury at London. SUTHERLAND, J., in a written judgment, found as a fact that the plaintiff, in 1898, signed, sealed, and executed a deed which conveyed all his interest in the parcel of land referred to, to his mother, and that the deed was delivered to her as his grantee. The mother did not take the deed subject to an agreement such as the plaintiff alleged. The deed operated as an absolute conveyance to her of the interest of the plaintiff in the land. The deed from the mother to the trust company was valid to convey the land to it for the purposes of carrying out the trusts contained in her will. The real contest in this action was as to the real estate. Any personal estate left by the father was apparently of small value. It was said that the mother paid the father's funeral expenses. In the circumstances of the case and upon the evidence, there was no ground for making an order for the administration of the estate. The action should be dismissed with costs. J. A. E. Braden, for the plaintiff. J. W. G. Winnett, for the defendants Frederick and James Morley. J. B. McKillop, for the defendant company.

RE HUNTER—KELLY, J.—JAN. 9.

Will—Construction—Gift Contained in Direction to Pay—Postponement of Enjoyment—Assignment by Children of Shares of Corpus to Widow—Immediate Payment to Widow.—Application by the executors of the will of William Henry Hunter for the opinion and advice of the Court upon a question arising in the administration of the testator's estate. The motion was heard in the Weekly Court, Toronto. KELLY, J., in a written judgment, said that it was shewn that there were four children of the testator by his wife Rebecca, three of them were over 21 years of age. It was also said that each of these three adult children had assigned to his mother