Roy, and the defendants, Joseph Dufaux and Marguerite Dufaux, as representing their mother, a sister of Marie Louise Herse, were the nearest of kin to Pierre Roy. Thus on the death of Joseph Roy, the land in question devolved, by virtue of the deed of donation, one half upon Marie Louise Herse, and the other half upon Joseph and Marguerite Dufaux. But, as the declaration alleged, on the death of Joseph Roy, the defendants illegally took possession of the whole, and continued in possession. The plaintiffs further alleged that on the 2nd of September, 1848, Joseph Roy made a will bequeathing the land in question to the defendants; that subsequently, in May, 1857, one J. Bte. Sancer brought an action against the defendants, to have the plaintiffs, his debtors, declared proprietors of the undivided half of the land willed by Joseph Roy; that to this action (then still pending), the defendants pleaded that the present plaintiffs had ratified the will of Joseph Roy on the 10th of December, 1848, in an *acte* which was the *préambule à l'inventaire* of the effects of Joseph Roy; that Sancer had inscribed *en faux* against this *acte* of ratification, because at this time the plaintiffs were ignorant of the existence of the deed of donation; that Joseph Dufaux, father of the defendants, knew of the existence of the donation, but concealed the fact from the plaintiffs. Conclusion, that the plaintiffs be declared proprietors of the undivided half of the land in question, and that the defendants be condemned to pay £4,000 for revenues and damages.

Plea: That Pierre Roy made a will on the 15th of December, 1821, bequeathing to his son, Joseph Roy, the usufruct of all the property, moveable and immoveable, which he might leave at his death, the *propriété* to be his children's, with power, in case he should not have any children, to dispose of the *propriété* in his discretion.

Two questions arose: 1. Was the will made by Joseph Roy, disposing of the property in favour of Joseph and Marguerite Dufaux, valid? 2. If it was not, did the ratification by the plaintiff of the will of Joseph Roy exclude her from claiming the share which she would have had in the property, if Joseph Roy had not willed it to the defendants? The Superior Court decided these questions in the negative, holding that by the donation *entre vifs*, of the 21st May, 1825, Pierre Roy made over to his heirs-at-law the property in question, reserving to Joseph Roy the life interest of the estate; and that on the death of Joseph Roy, the property devolved equally upon the plaintiffs and defendants. The Court held, further, that the effect of this donation was such as to prevent Joseph Roy from disposing of the property by will, and therefore the will made by him, under which the defendants had taken possession of the whole property, was null and void. The Court lastly held that the fact of the plaintiffs having signed the *préambule d'inventaire*, which did not make any allusion to the donation, could not defeat the pre-existing title of the heirs. The Court accordingly declared the plaintiffs the proprietors of the undivided half of the property, and ordered an *expertise*. From this judgment the defendants appealed.

The following propositions were submitted by the counsel for the appellants as grounds for the reversal of the judgment. 1. By the donation of 1825, Pierre Roy only disposed of the land in question, in favour of his son Joseph, with the reservation that if Joseph died without children, the property should return to his (Pierre's) succession. 2. In the event of Joseph not leaving children, the property would be subject to the testamentary dispositions of Pierre Roy, either before or after the date of the deed of donation, and consequently Joseph Roy could dispose of it by will as he had done. 3. Even supposing that the property devolved upon the heirs as the plaintiffs pretended, yet Joseph Roy could give a part of the property belonging to the plaintiffs to his other legatees, inasmuch as it is permitted to a testator to bequeath the property of others. 4. The plaintiffs expressly ratified the will of Joseph Roy, with knowledge of the donation of 1825, and could no longer demand the setting aside of the legacies contained in it. 5. Assuming that the plaintiff did not expressly ratify the will, she had executed it, after being made aware of the donation, by accepting the legacies contained in it. 6. After being aware of the donation, she had al-