

KAAKEE V. KAAKEE—KELLY, J.—JAN. 7:

*Husband and Wife—House and Land Purchased by Husband—Action by Wife to Establish Co-ownership—Evidence—Contributions to Purchase-price—Separate Earnings—Gift—Payment of Taxes—Possession.*—Action by the defendant's wife for a declaration that she was co-owner with the defendant of a dwelling-house and premises used by both parties and their children as their home. The plaintiff alleged that when the property was purchased it was understood between her and her husband that both were to be equally interested in it, and that she contributed to the cash payment then made on the purchase-money and to all the payments subsequently made on the mortgages representing the balance—the money paid by her, as she alleged, being derived from keeping boarders and doing sewing and laundry work. KELLY, J., finds that the defendant practised no deception on the plaintiff by giving her to understand that she was to be part owner or otherwise; and that what took place in relation to his acquiring the property fell far short of what the law requires to establish a gift. The learned Judge was also of opinion that the evidence did not warrant a finding that the plaintiff contributed her own personal moneys towards the purchase or the payment of incumbrances or taxes. The evidence left no doubt that she was not possessed of any means of her own. She failed to shew any substantial earnings; and the keeping of boarders was not such as to be classed as an employment, trade, or occupation in which she was engaged and from which she could be said to have acquired separate earnings. The plaintiff was now occupying the property, and had paid the taxes for 1912 and 1913. She had no legal right to exclude the defendant from possession or to hold the property as against him. Judgment declaring that the plaintiff has failed to establish her claim to part ownership, and that the defendant is entitled to possession, subject to any inchoate right of dower in the plaintiff and to her right as his wife to reside on the property with him, if he continues to occupy it. No costs. W. R. Cavell, for the plaintiff. D. Macdonald, for the defendant.

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CORRECTION.

In RE HARRIS, ante 597, on p. 599, line 19, before the words "to transfer," insert the words "to refuse."