

this objection to the present motion, that, if that course had been taken, the Court would have asked defendant's counsel why he had not moved for particulars, and would have directed plaintiff to amend, by alleging consideration. As the plaintiff has complied with the demand to some extent, I think he should state what, if any consideration is relied on. Then if there is none, or one which defendant thinks is insufficient in law, then he can move under C. R. 261 if so advised.

It therefore follows that plaintiff should furnish some answer to the demand as to consideration. And that the time for delivery of statement of defence be enlarged meantime.

In Odgers on Pleading, 7th ed., at p. 91 (p. 88 of 5th ed.) it is said: "The consideration for any contract not under seal, is always material, and should be correctly set out in the statement of claim, except in the case of negotiable instruments."

The present statement of claim, therefore, does not conform to C. R. 268.

The costs of the motion must be to defendant in the cause in any event.

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HON. MR. JUSTICE MIDDLETON.

FEBRUARY 25TH, 1913.

RE MARA & WOLFE.

4 O. W. N.

*Will—Construction of—Vendor and Purchaser Application—Gift of Life Estate and Absolute Power of Appointment—Gift over on Default—Time of Vesting in Appointee.*

An estate was given to trustees, and a devisee given a life estate and a general power of appointment by will or deed, the executors being directed to convey in accordance with the appointment in the event of the devisee dying. By subsequent clauses, gifts over in default of appointment by the devisee on her death, were made.

MIDDLETON, J., *held*, that the devisee and the trustees could make a good title of an absolute interest in the property by a properly drawn deed.

Motion under Vendors and Purchasers Act, to determine a question arising on the will of the late Ann Mara, as to the ability of Charlotte S. Mara, with the concurrence of the surviving trustee under the will to make title.