

HODGINS, J.A., in a short memorandum, said that he concurred in allowing the appeal and dismissing the action, but adhered to his dissent on the points mentioned in the Doner and Sierichs cases.

LATCHFORD, J., agreed with HODGINS, J.A.

*Appeal allowed.*

FIRST DIVISIONAL COURT.

APRIL 16TH, 1918.

GOODCHILD v. WILCOX.

*Will—Devise of Land—Conveyance by Deed—Action to Set aside—Mental Incapacity of Testator and Grantor—Undue Influence—Evidence—Title by Possession to Portion of Lands of Testator Acquired by Son—Evidence—Limitations Act—Adverse Entry—Findings of Trial Judge—Appeal.*

Appeal by the defendant Annie Wilcox from part of the judgment of LATCHFORD, J., 12 O.W.N. 55.

The appeal was heard by MACLAREN and HODGINS, JJ.A., SUTHERLAND and KELLY, JJ., and FERGUSON, J.A.

J. H. Rodd, for the appellant and for the executors of the will of John R. Goodchild, deceased.

W. N. Tilley, K.C., for the plaintiffs, respondents.

F. D. Davis, for the defendants the Western Trusts Company and James Caldwell.

FERGUSON, J.A., reading the judgment of the Court, said that the defendant Annie Wilcox appealed from that part of the judgment of Latchford, J., whereby he declared that the plaintiff Robert Goodchild had acquired as against his father, John R. Goodchild, deceased, and all those claiming under him, a possessory title to part of lots 60 and 61 in the 7th concession of the township of Malden, and that a certain conveyance from John R. Goodchild, deceased, to his daughter, the defendant Annie Wilcox, dated the 23rd February, 1915, was invalid, and that a will of the late John R. Goodchild, dated the 23rd February, 1915, was also invalid.

The deed and will were attacked on the grounds of mental incapacity and undue influence.