

RIDDELL, J.

NOVEMBER 30TH, 1907.

TRIAL.

CLARK v. MOTT.

Sale of Goods—Action for Price—Defence Based on Failure of Title to Goods—Implied Warranty of Title—Executor—Will—Provision for Maintenance of Testator's Children in Hotel—Sale of Furniture in Hotel—Right of Child to Object—Executor—Powers of—Conduct—Estoppel—Contract—Lease—Offer to Purchase.

Action to recover \$950, in the circumstances stated in the judgment.

M. Wright, Belleville, for plaintiff.

E. G. Porter, Belleville, for defendant.

RIDDELL, J.:— . . . The late G. W. Clark was in his lifetime the owner of a hotel in Frankfort village, with furniture, etc. By his will he gave this hotel, furniture, etc., to his wife, but the will contains a clause as follows: "I will, bequeath, and direct that my 4 daughters, namely, Edna Clark, Gladys Clark, Hattie Clark, and Lena Irene Clark, shall have a home and maintenance at my said hotel till they are married respectively, and that upon their marriage they shall be paid the sum of \$100 in ready money by my executors hereinafter named out of my estate respectively."

G. W. Clark died in August, 1900; his widow took possession of hotel, furniture, etc., and was in such possession at the time of her death, 16th August, 1906. She made a will in which she appoints the present plaintiff, Gladys Clark, sole executrix, and provides: "I give, devise, and bequeath all my real and personal estate of which I may die possessed in the manner following, that is to say, unto my three daughters, Gladys Clark, Hattie F. Clark, and Lena Irene Clark, share and share alike"—with an unimportant exception.

On 27th October, 1906, the plaintiff, as executrix of her mother, leased to the defendant the hotel for a term of 3 years from 1st November, 1906. In the indenture is found