

people don't take the trouble to get receipts, they must run their chances of having to pay twice.

However, the probability is that of the 4 \$50 bills which defendant got at the bank he paid 2 to defendant (with the odd \$10 out of his pocket), and that he paid the other 2 to the Imperial Loan and Investment Company.

Action dismissed with costs.

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BOYD, C.

MAY 26TH, 1906.

CHAMBERS.

RE McDONALD v. RICHMOND.

*Division Court—Jurisdiction—Title to Land—Occupation  
Rent—Statute of Limitations—Prohibition.*

Motion by defendant for prohibition to 3rd Division Court in county of Peel.

T. J. Blain, Brampton, for defendant.

R. E. Heggie, Brampton, for plaintiffs.

BOYD, C.:—Plaintiffs sue for arrears of occupation rent of land held by defendant under plaintiffs and the testator whom they represent for 3 years. Defendant pleads that claim is barred by Statute of Limitations and by the Real Property Limitation Act, and also raises counterclaim for work and services due from the testator for several years. It is admitted and proved that defendant entered into the possession of the garden under the testator and upon obtaining his permission to do so, in 1893, and into possession of the house in May, 1896, with like permission, and that the rent for several years was paid by work done for the testator by defendant and settlement therefor had up to August, 1901. The summons was issued in February, 1906.

No question arose about the title to land nor could arise, upon this evidence, which would oust the jurisdiction of the Division Court: *Bank of Montreal v. Gilchrist*, 6 A. R. 659, 664.

Defendant was found liable for arrears of rent, and got credit for some set-off on account of his work, but for the balance he must answer, as found by the Judge, against which no prohibition should issue. Dismiss with costs.