

said lands until those legacies were fully paid. There was in the will a further residuary devise to the testator's wife, sons, and daughters; but there was no residuary estate over and above what was specially dealt with.

It was admitted that the personal estate was properly realised upon, and the proceeds, after paying the debts and funeral expenses of the testator, applied in payment of legacies, the plaintiff having herself received \$400 on account of the \$1,000 bequeathed to her; but part of the \$400 was, as I understood the evidence, received from William.

On the 12th June, 1891, the executors, as executors, executed a conveyance to the defendant Charles Harper of the lands devised to him. After the conveyance, the executors allowed the defendant Charles to deal with his mother. The sisters did raise some question, and apparently all were settled with, except the plaintiff, by their accepting less than the amount mentioned in the will. In fact, there never was sufficient to pay all in full, after paying the annuity to the widow and giving her the use of the house and ten acres of land.

The widow died in 1907.

The executors acted under a solicitor's advice, and brought in their accounts and had them passed by the Judge of the Surrogate Court of the County of Ontario shortly prior to the 1st June, 1892. It was proved that there was a clear statement up to that date, and that the executors did not receive any money thereafter; or, if they did, by reason of a small outstanding account, such money was fully accounted for. . . .

The defendant Thomas Graham, one of the executors, pleads the Statute of Limitations; that he has fully administered; and submits his rights to the Court. John Harper, the other executor, does not defend. Charles Harper denies that there was any such express or implied trust as alleged by the plaintiff; and he pleads the Statute of Limitations.

The case which the plaintiff seeks to make is, that, as the testator died prior to the 4th March, 1891, all his real and personal estate, notwithstanding the disposition thereof by his will, devolved upon and became vested in the defendants the executors, upon an express trust to pay the debts and legacies; and the contention is, that in such a case the Statute of Limitations does not apply. The plaintiff relies upon R.S.O. 1897 ch. 133, sec. 30, sub-sec. 1.

The plaintiff's contention, in my opinion, is wrong. Speaking generally, as between executors of an estate and creditors,