

RIDDELL, J., reached the same conclusion, for reasons stated in writing.

SUTHERLAND, J., agreed with MULOCK, C.J. Ex.

MASTEN, J., for reasons stated in writing, agreed in the result.

Appeals dismissed with costs.

SECOND DIVISIONAL COURT.

MAY 5TH, 1920.

*ANKCORN v. STEWART.

Will—Discretion of Executors as to Daughters of Testator Sharing in Estate—Married Daughter Deprived of Share—Death before Period of Distribution—Conveyance by Surviving Executor to Son of Testator—Action by Administratrix of Estate of Daughter against Son for Accounting Based on Breach of Trust—Constructive Trustee—Limitations Act, secs. 24, 47—Trustee Act, sec. 37—Right of Husband of Daughter not Accruing until Appointment of Administratrix—Costs.

Appeal by the plaintiff from the judgment of KELLY, J., 17 O.W.N. 411.

The appeal was heard by MULOCK, C.J. Ex., RIDDELL, SUTHERLAND, and MASTEN, JJ.

J. G. Kerr, for the appellant.

O. L. Lewis, K.C., and H. D. Smith, for the defendant, respondent.

MULOCK, C.J. Ex., read a judgment in which, after setting out the facts, he said that the plaintiff attained her majority in 1914; on the 14th July, 1919, letters of administration of the estate of Matilda Sanderson, the deceased mother of the plaintiff, were granted to the plaintiff; and on the 24th July, 1919, she instituted this action, in which she alleged that the defendant had possessed himself of the assets of the estate of Hugh Stewart, the plaintiff's grandfather and the defendant's father, and was accountable to her in respect of the share of her deceased mother.

The questions in issue were, whether Matilda Sanderson was entitled to share in her father's estate, and, if so, whether the defendant was accountable to her by reason of his having acquired the assets from the surviving executor, William Stewart, with notice of Matilda Sanderson's unsatisfied claim.