

there being a resulting trust as to the income. By the trust of the settlement the income of the trust fund was payable to the wife during the joint lives of herself and husband for her separate use without power of anticipation, and after the death of the survivor of them in trust for the children of the marriage, no disposition being made of the income in the event which happened, namely, the wife surviving her husband. The defendants relied on the Trustee Act, 1888 (51 & 52 Vict., c. 59), ss. 6, 8, and the Trustee Act, 1893 (56 & 57 Vict., c. 53), s. 45 (see 54 Vict., c. 19, ss. 11, 13 (O.)), claiming that the cause of action arose in 1884 and was barred by the Statute of Limitations, the action not having been commenced until November 7, 1890; and they claimed that in case there was a breach of trust of which the plaintiffs could complain that the wife's income from the trust fund should be impounded to indemnify the defendants; and also that in any case only Hugh Browne was liable. North, J., was, however, against the defendants on every point. He held that, as regarded the income after the death of the husband, the wife was entitled to it by way of resulting trust for the residue of her life, and that as her husband did not die until April, 1885, this was the starting point for the running of the statute as regards this estate, and, therefore, that the action was in time; that as to her children the action had not begun to run against them, as their interest did not come into possession until the death of their mother; but as to the trustees, who were made co-plaintiffs, he held that they were barred by the statute. He also held that no part of the wife's income could be impounded, because it did not appear that she knew that the investment to which she had consented was objectionable or a breach of trust, and that a consent to an investment is not equivalent to a consent to a breach of trust, even though the investment consented to be a breach of trust, unless the wife knew the facts which rendered it a breach of trust. He also held that both defendants were liable. The learned judge dwells once or twice upon the fact that Mr. Hugh Browne had taken pains to inform him that he (Browne) had always advised his clients against having anything to do with the court, and that if the rules of the court were observed it would be impossible to do business, and we are inclined to think Mr. Browne rather needlessly prejudiced his case by these gratuitous statements.