

husband, and had against him an unsatisfied claim for costs. The alimony action was not prosecuted at length, owing to an arrangement by which (among other things) the husband leased the land in question to his wife for 7 years at a nominal rent. She accepted this in lieu of alimony, and has since then lived on the land and brought up a numerous family of small children, most of whom are now of age. At the end of the 7 years, in February, 1906, the husband demanded possession from the widow, and she objected to going off the land, but asked him to return and maintain his family. That he refused to do, and till this action she remained unmolested on the land with 4 infant children, the eldest, a girl, being 16 years of age. They have worked the place as well as they could, and lived on the proceeds. In September, 1905, the defendants the solicitors recovered judgment against the husband for their costs, to the amount of \$97, and duly placed in the sheriff's hands an execution, which attached upon the interest of the plaintiff, and under which the sale took place in October, 1906. It appears that the sheriff advertised the sale in the official Gazette and in a local paper, but what other steps he took does not appear. The sheriff died pending this action, and the plaintiff made no attempt to prove, from his books or otherwise, what had been done by him before the sale.

It also appears that in October, 1905, the plaintiff made application by other solicitors, to have determined by the Court certain questions arising as to the estate of the plaintiff in the land in question under the will of Colin McNichol, in which proceeding costs of the various parties interested were taxed at the sum of about \$200, and were made a charge upon the said lands. By the said will the plaintiff has a life estate in the land, and the wife has also a life estate after the death of her husband, with the remainder in fee as the plaintiff may appoint, and, in default of appointment, to persons named.

By the pleading complaint is made that this land, worth as alleged \$3,500, was sold for \$70. But the interest sold was not the fee simple, which the plaintiff had not, but only his life estate. Evidence was given that the land would rent for \$150 per year, but based on the supposition that it was in good condition. And evidence was given that the average chance for life of a person aged 59 (said to be the