

# The Ontario Weekly Notes

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## COURT OF APPEAL.

COURT OF APPEAL.

NOVEMBER 19TH, 1912.

NOBLE v. NOBLE.

*Limitation of Actions—Recovery of Land—Possession—Evidence of Tenancy—Registered Discharge of Mortgage—Legal Effect of—New Starting-point—Registry Act—Purchaser Claiming under Mortgage—Stranger to Estate Obtaining Discharge.*

Appeal by the defendant from the judgment of a Divisional Court reversing the judgment at the trial of MULOCK, C.J.Ex.D. The action was brought to recover possession of land in Brantford, and the defence was the Statute of Limitations. The case is reported in 25 O.L.R. 379, where the facts are set forth.

The appeal was heard by GARROW, MACLAREN, MEREDITH, and MAGEE, J.J.A.

M. K. Cowan, K.C., for the defendant.

W. S. Brewster, K.C., for the plaintiff.

GARROW, J.A.:—The case naturally divides into two branches; the first as to the nature and terms of the occupancy of the land by the defendant and her late husband, and the second as to the legal effect of the registered discharge of mortgage.

Upon the first branch Mulock, C.J., held that the occupancy began as a tenancy at will, which was never afterwards interrupted or changed, and that at the end of ten years from the end of the first year of the tenancy the statutory bar against the plaintiff was complete.