

action may be brought. The legal position is now as pointed out by Mr. Armour, pp. 192, 194, 195. . . .

A possible doubt may arise as to the correctness of my conclusion, for this reason. Nancy Hillis died on the 24th May, 1899, intestate. Under R. S. O. 1897 ch. 127, sec. 13, the land became vested in the heirs on the 24th May, 1900. The statute 3 W. & M. ch. 14 was then in force. The statute 2 Edw. VII. ch. 1, which, by sec. 4, continued the liability of lands of deceased persons for debts of the deceased, also, by sec. 2, repealed (as to the province of Ontario) 3 W. & M. ch. 14. Section 4 of 2 Edw. VII. ch. 1 speaks of lands which "should become" vested. Can that apply to this land, which *had* become vested? If it cannot, can the plaintiff get on in this action without the aid of 3 W. & M. ch. 14, which is now not in force in Ontario?

With some hesitation, I think this action will lie if the land has not become the land of the defendant William Lammiman by virtue of the Statute of Limitations.

The plaintiff's status here is as a judgment creditor. The defendant William Lammiman objected that this had not been proved . . . ; that the papers in the mortgage action were not evidence upon their mere production. . . . I allowed these papers to be put in, subject to the objection. . . .

The defendant William Lammiman claims title by possession. His evidence is that in 1885, by reason of his brother-in-law cutting wood on this lot, he complained, and his mother gave the lot to him. . . . There were no creditors, no one objecting, and this occurred, if it did occur, eleven years before the plaintiff got his mortgage. . . .

Then there was the delivery of the old deeds, if I believe the evidence, as I do, and the keeping of these deeds by the defendant. The defendant's Christian name was the same as that of his father, and the old lady seemed to think that, because the deed was in that name, it would answer for the son. No claim is made by the sisters.

Now, acts of ownership depend upon the circumstances, the conditions, etc., and the kind of land. This . . . was bush land; no buildings upon it; a considerable distance from where the defendant lived, and of comparatively little value. . . .

I quite agree that, according to the authorities, if this case was against Nancy Hillis in her lifetime, and if she averred a want of knowledge of the occupancy or of the acts of ownership by her son, a very different state of things would prevail. Here, if the evidence is accepted, all that the defendant did down to the time of his mother's death was with the complete knowledge of his mother.