

Improvidence—Recovery of Possession—Allowance for Improvements.]—Action by the administrators of the estate of Peter Fryfogel, deceased, to set aside a conveyance made by him to his son, the defendant, and for other relief. The learned Chief Justice found that, at the time of the pretended execution of the conveyance to the defendant (the 2nd September, 1909), the mental capacity of Peter Fryfogel had become so impaired by old age and disease (arterial sclerosis) that he was incapable of understanding the nature of the said conveyance or of making any disposition of his property. A codicil purporting to have been made about the same time had been set aside in the Surrogate Court of the County of Perth, on the same ground. There was also undue influence of the defendant, and Peter Fryfogel was so hedged about by the defendant that it amounted to duress; and Peter Fryfogel had no independent legal advice. Owing to his being so surrounded and to his want of mental capacity, he was never in a position to attack the deed in his lifetime, had he desired to do so, and he was entirely unable to acquiesce in or confirm the transaction in any manner. Judgment declaring that the said conveyance is void, as not being the deed of the said Peter Fryfogel and as having been obtained by duress and undue influence and as improvident, and directing that it be delivered up to be cancelled, with costs; also order for possession of the lands and recovery of rents and profits with interest, as to which there will be a reference, in which the defendant will be allowed for all sums expended by him in improvements and repairs of a substantial and permanent nature by which the present value is enhanced, with interest. Further directions and subsequent costs reserved. R. S. Robertson, for the plaintiffs. J. M. McEvoy, for the defendant.

DRAKE V. BRADY—FALCONBRIDGE, C.J.K.B.—APRIL 28.

Contract—Dealing with Lands—Share of Profits—Account—Amendment.]—Action for an account of the defendants' dealings with certain lands, payment of the plaintiff's share of the profits, and damages. The learned Chief Justice find that the plaintiff is justly and equitably entitled to recover \$355.72, and gives judgment for the plaintiff for that sum, with County Court costs and no set-off. The defendants' motion for leave to add a counterclaim for damages is refused. W. T. J. Lee, for the plaintiff. William Proudfoot, K.C., for the defendants.