

The action was not brought until 30th September, 1902, over seven years from the date of the deed, and, while the delay may not be in itself an absolute bar, I think it is a fact proper to be considered in determining the case; but in view of my findings on the merits of the case, it is not necessary to determine whether plaintiff is estopped by delay and acquiescence.

The action will be dismissed with costs as against the defendant Waffle, and without costs as against the defendant Noonan, a purchaser of the farm in question from his co-defendant, but who unnecessarily encouraged plaintiff to bring the action.

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