

The effect of the conveyance to the vendor, Mrs. Campbell, on 9th April, 1900, from the executor of Colin Campbell, of Weymouth, was, therefore, to vest in her the estate which had been vested in that testator, but to vest it in her as a bare trustee for the children of Colin Campbell, of Ottawa, without any power to sell it. Having no power to sell it, she cannot make title to it to the purchaser, and the appeal must be dismissed with costs.

M. J. Gorman, Ottawa, solicitor for vendor.

D. H. Maclean, Ottawa, solicitor for purchaser.

OSLER, J.A.

MAY 29TH, 1902.

C.A.—CHAMBERS.

BROWN v. MCGREGOR.

*Appeal—Extension of Time—Laches—Security.*

Motion by the plaintiff to extend time for setting down appeal.

J. H. Moss, for plaintiff.

D. L. McCarthy, for defendant.

OSLER, J.A.—The course of the case has been as follows :—

Trial—the second trial—before FALCONBRIDGE, C.J., 16th September, 1901, and judgment by him 27th December, 1901, dismissing the action.

Notice of appeal 6th February, 1902. Reasons of appeal 10th February, 1902. Time for delivery of reasons contra, extended on 12th February, 1902, at request of the respondent. Draft appeal case sent by appellant to respondent 25th February, 1902, but without the evidence taken at the second trial, which appellant had up to this time been unable to obtain from the stenographer. 10th March, 1902, draft case returned by respondent's solicitor, with reasons against appeal, but objecting to insertion in the case of any part of the examination for discovery, except what had been read at the trial.

The appellant would not accede to this perfectly proper objection, and the result was a motion before the trial Judge to settle the case. This was disposed of adversely to the appellant on the 26th March, 1902. No further step was taken by him until the 5th April, when new reasons of appeal were served, omitting those which had been rested on the deleted parts of the examination for discovery.

On the 23rd or 24th April the appellant obtained copy of the evidence, and then rested until the 5th May, when amended draft appeal case was sent to the respondent's solicitor, which he returned with the objection that the appellant was out of time and in default, for not having