

KELLY, J.

SEPTEMBER 27TH, 1913.

## RE TOZMAN AND LAX.

*Vendor and Purchaser—Contract for Sale of Land—Objections to Title—Conveyance by Trustee under Will—Registration of Will—Letters Probate not Issued—Outstanding Interest—Quit-claim Deed—Right of Way—Width of Way—Terms of Payment of Purchase-money—Terms of Renewal of Existing Mortgage.*

Application by the vendor upon an agreement for the sale and purchase of land, under the Vendors and Purchasers Act, for an order declaring that the vendor was able to make a good title as against the objections of the purchaser.

A. Cohen, for the vendor.

L. M. Singer, for the purchaser.

KELLY, J.:—The main objection to the title made by the purchaser is that arising from the conveyance made on the 15th April, 1887, by George Trolley, as trustee under the last will and testament of Elizabeth Trolley, deceased, to Martha Ann Gray. Elizabeth Trolley, by her will dated the 6th June, 1881, and registered in the registry office on the 7th June, 1882, appointed her husband, George Trolley, the sole executor thereof, with full power to sell or dispose of any or all of her real estate, should he think it to the interest of her children to do so; she having earlier in the will devised her real estate to be equally divided among her children when the youngest became of age. Probate of the will not having been issued, the purchaser makes objection to the vendor's title, which is derived through the above-mentioned deed. From a careful consideration of the whole matter as submitted, I do not think that the title on that ground is objectionable.

In a further objection, the purchaser asks that a quit-claim deed be obtained from the Confederation Life Association, to whom, more than a year after they had become mortgagees of the property, a quit-claim deed was made by one Macdonald, who was owner of or interested in the property before the mortgagor acquired title. The mortgage has since been discharged, but I think a quit-claim deed should also be obtained from the association, so as to remove what otherwise might hereafter be set up as a cloud on the title.