

In Equity, Barker, J.]

CARROL v. ROGERS.

[Dec. 18, 1900.

*Deed—Registry Act—Competing purchasers—Unregistered deed—Sale of part of lot—Subsequent registered mortgage of remainder—Reference in description to previous conveyance—Subsequent deed of whole lot—Notice—Priorities.*

A part of a lot of land was sold to the plaintiff by M. by deed, which the plaintiff neglected to register. Subsequently M. mortgaged by registered conveyance the remainder of the lot to S. The description in the mortgage of the land followed the original description of the whole lot, but "excepted the portion sold and conveyed by the said" M. to C. (the plaintiff). Subsequently M. sold and conveyed by registered deed for valuable consideration the whole lot of land to the defendant, who had notice of the mortgage, but not of its contents. By 57 Vict., c. 20, s. 29, an unregistered conveyance shall be fraudulent and void against a subsequent purchaser for valuable consideration whose conveyance is previously registered. By s. 69 of the Act the registration of any instrument under the Act shall constitute notice of the instrument to all persons claiming any interest in the lands subsequent to such registration.

*Held*, that by the Act the registration of the mortgage constituted actual notice of its contents to the defendant, whose title therefore should be postponed to the plaintiff's.

*L. J. Tweedie*, Q.C., for plaintiff. *R. Murray*, Q.C., for defendant.

Barker, J.]

RAMSAY v. RAMSAY.

[Dec. 18, 1900.

*Statute of Limitations, c. 84, s. 13, C.S.—Tenants in common—Death of co-tenant—Adverse possession by survivor—Title of heir extinguished.*

Land was conveyed in fee to two brothers as tenants in common. One brother died on May 9, 1876, intestate, leaving him surviving his co-tenant, his mother and three sisters, of whom the plaintiff is one. The mother died September 5, 1876. The surviving brother had from the time of his brother's death until his own death on November 8, 1896, exclusive possession and use of the land and the receipt of the rents and profits therefrom without accounting. He and his sisters lived together on premises situated elsewhere until his marriage in 1890. He always contributed to their support, but the contributions were not meant to be a share to the sisters in the rents and profits of the land. In a suit commenced September 21, 1899, by the plaintiff for the partition of the land:—

*Held*, that the plaintiff's title was extinguished by c. 34, s. 13, C.S.

*L. J. Tweedie*, Q.C., for plaintiff. *M. G. Teed*, for defendants.