

statute; and as, during the period, Gilbert had been the owner of three remainders, viz., $\frac{1}{3}$ of $\frac{1}{3}$, that is, $\frac{1}{9}$, on the death of each of his two brothers and on his own, these also would be barred.

[Reference to sec. 7(3) of the Limitations Act, R.S.O. 1914 ch. 75; *Sladden v. Smith* (1858), 7 U.C.C.P. 74; *Doe d. Hall v. Mouldsdale* (1847), 16 M. & W. 689; *Ludbrook v. Ludbrook*, [1901] 2 K.B. 96; *Clarke v. Clarke* (1868), 2 Ir. Rep. C.L. 395; *Sugden on Vendor and Purchaser*, 14th ed., p. 480; *Dart on Vendor and Purchaser*, 7th ed., p. 452; *Armour on Real Property*, p. 458; *Lightwood's Time Limit on Actions*, pp. 59 sqq.; *Lightwood's Possession of Land*, p. 213.]

We should . . . hold that *Sladden v. Smith* is not well decided, and that sec. 7(3) applies to the present case.

Unless more appears, the death of Olivier saw the Dubys entitled to the life estate of Gilbert in possession, the $\frac{1}{3}$ of the fee to which on Olivier's death he (Gilbert) became entitled in possession and remainders amounting to $\frac{2}{3}$ of the fee in this strip. Of course, any division by the three sons of Pierre could not be assumed to last beyond their joint lives, since, on the death of any one, other persons became interested in possession as tenants in common of an undivided third interest in all the land, and no arrangement by these sons, inter se, could bind them.

Then Duby became a tenant in common of the fee: he held possession of the whole land without accounting to any one. . . .

[Reference to sec. 12 of the Act.]

The result would be that, on the death of Gilbert in 1911, since the outside limit of time given under secs. 40 and 41 of the Act had elapsed, Duby would have acquired the fee in one-third of the lot, directly under sec. 5, and indirectly under sec. 7(3). The death of Gilbert would not give a new term for the statute to begin. . . .

[Reference to *Hill v. Ashbridge* (1892), 20 A.R. 44, and *In re Hobbs*, *Hobbs v. Wade* (1887), 36 Ch. D. 553.]

If the strip be considered not a part of Gilbert's third, the same result will follow a fortiori. The three sons of Pierre were tenants in common, each for life or pur autre vie as might turn out. The trespasser acquired whatever estate they had in possession, and, by virtue of sec. 7(3), also their remainders in fee. Then, as all the other heirs-at-law of Pierre became entitled on the death of Olivier to a share in fee, the trespasser, as tenant in common remaining in possession of the whole, became entitled to their shares, both immediate through sec. 5, and through sec. 7(3) in remainder. . . .