miman, one of the children, was then about four years old. The widow married a man named Hillis, and on the 10th November, 1883, the heirs-at-law of William Lammiman the elder conveyed to her, Nancy Hillis, 12½ acres of land, which, with other lands, had been owned by William Lammiman the elder. The consideration stated was $125, apparently not less than the value at that time of the 12½ acres. Nancy Hillis owned another piece of land, 32¼ acres, and on the 17th March, 1896, she gave a mortgage upon it to the plaintiff for $1,100 and interest. After the death of Nancy Hillis in 1899, the plaintiff brought an action upon his mortgage, and the mortgaged land was therein sold, but the amount realised was not sufficient to pay the principal, interest, and costs, the deficiency being $224.06, which was the debt the plaintiff sought in this action to obtain payment of. In the mortgage action there was no claim for administration, and nothing said about other creditors, if any.

In this action the plaintiff did not sue as a judgment creditor with execution in the hands of the sheriff, and did not sue on behalf of all creditors, and did not ask for a general administration of the estate of Nancy Hillis, or for the appointment of an administrator. Her estate had not been administered, and there were no creditors other than the plaintiff, so far as appeared.

The plaintiff maintained his right to proceed in this way if the land in question belonged to the estate of Nancy Hillis.

The defendant William Lammiman pleaded as a bar to the action want of administration, and that this action was barred by the Statute of Limitations.

F. E. Hodgins, K.C., and F. S. Bastedo, for the plaintiff.

D. B. Simpson, K.C., for the defendant William Lammiman.

J. R. Meredith, for the infant defendants.

BRITTON, J.:—The action is brought against the heirs-at-law of Nancy Hillis, not to make them personally liable, but to reach the land in question, which, if it belonged to her, may be treated as an asset in the hands of the heirs for the payment of the debt.

Gardiner v. Gardiner, 2 O. S. 554, decided that lands could be reached by action against an administrator or executor. After the law was established by that decision, actions against the heir became infrequent, if not obsolete, as was pointed out in Rymal v. Ashbery, 12 C. P. 339, at p. 342; and see Armour on Devolution, p. 186.

I do not know of any action, since Gardiner v. Gardiner, brought, as in this one, against the heirs, and counsel did not refer me to any reported case. It is, however, apparent that such an