

The defendants took the preliminary objection that under Rule 765(a), (see Ont. Rule 938(a)), a settlor claiming by way of resulting trust in consequence of the illegality of the trust declared by him, is not a cestui que trust under the "trust of that instrument" and, therefore, not within the rule, and Eady, J., gave effect to the objection, and held that an action was necessary.

WILL—TRUST FOR ACCUMULATION TO MEET LIABILITIES UNDER LEASE—ACCUMULATION ACT, 1800 (THELLUSON ACT) (39-40 GEO. III. c. 98), ss. 1, 2—(10 EDW. VII. c. 46, ss. 2, 3 (ONT.)).

In re Hurlbatt, Hurlbatt v. Hurlbatt (1910) 2 Ch. 553. In this case the validity of a trust for accumulations beyond the statutory period was in question. A testatrix had devised leaseholds to trustees upon trust that they should yearly for the residue of the terms of years for which she held the property accumulate one-fourth of the rents and profits, which she directed to be invested, and that all dividends and income arising from such investments should be added thereto by way of accumulation, and that the same and all accumulations should be held as a reserve fund by the trustees to indemnify them against all claims for dilapidations which might arise in respect of the leaseholds, and, subject to such indemnity and claims, in trust for the equal benefit of her nephew and nieces. The testatrix died in 1879, and the 21 years allowed for accumulation by the Thellusson Act terminated in 1900. The last of the leases did not expire till 1909. One-fourth of the rents had been accumulated and the dilapidations had been paid for thereout. Warrington, J., following *Varlo v. Faden* (1859) 27 Beav. 255; 1 De J. F. & J. 211, held that the trust to accumulate until the end of the terms was valid, the trust being in the nature of a provision for payment of debts and therefore within the exception of s. 2 (s. 3 of Ontario Act).

SALE OF GOODS—IMPLIED WARRANTY OF FITNESS OF GOODS SOLD—PATENT OR TRADE NAME—SALE OF GOODS ACT, 1893 (56-57 VICT. c. 71), s. 14.

Bristol Tramways v. Fiat Motors (1910) 2 K.B. 831. By a contract in writing the plaintiffs bought from the defendants one Fiat omnibus which they had inspected and six Fiat omnibus chassis. The vehicles when delivered proved to be unfit to per-