

possession of the property of a deceased person and hands it over to another, the giver and not the receiver is the executor *de son tort* unless there is some collusion, in which case both giver and receiver as joint wrongdoers become jointly executors *de son tort*, but in ordinary cases the giver is alone liable. There cannot be a series of executors *de son tort*. If a trust fund is handed over, then in equity it may be followed: *Hill v. Curtis*, L.R. 1 Eq. 91; but if handed over for value, then the fact that this value given had been rightly used in payment of debts might be set up in answer.

[Reference to *Mountford v. Gibson*, 4 East 441, as being in no way in conflict with the above.]

The plaintiff's appeal fails.

The plaintiff has been awarded \$100 as the amount allowed under 9 Edw. VII. ch. 47, s. 3 (f). I do not think this can stand. The plaintiff has sued as administratrix. The right is after the death vested in the widow (sec. 6), and not in the administrator—in fact the claim of the widow must in general be made against the administrator.

The right is further defined under sec. 7 as a right to select the chattels exempt from seizure. No selection was made before the sale, and a sale having been made, a new right intervenes and no claim can be made against a purchaser in good faith.

The right which has been given effect to is the right given by sec. 4 to receive the proceeds of the sale up to \$100. This is a right that must be exercised against the vendor, and not against the purchasers, the present defendants.

The right to select exempt chattels is by sec. 7 given to the debtor "his widow or family"; the right to claim \$100 in lieu of tools and implements of trade is a right given to the debtor personally, and the distinction may well have been made intentionally. The general exemptions which may be selected are articles used not alone by the debtor but also by his family. The tools of the debtor's trade are of use to him personally, but are not generally of value to the widow.

The defendants' appeal should be allowed and the action should be dismissed with costs.

MEREDITH, C.J.:—I agree.

TEETZEL, J.:—I agree.