

deceased, a farmer and fisherman, who died on the 2nd March, 1915, aged 83, against Annie Wilcox, a daughter of the deceased, the London and Western Trusts Company, administrators ad litem of his estate, and others, for a declaration that the parcels of land formerly owned by the deceased of which the plaintiffs were respectively in possession were owned by them respectively, and that the conveyance of these parcels by the deceased to the defendant Annie Wilcox, dated the 23rd February, 1915, was invalid and a cloud upon the title of the plaintiffs; and that the will of the deceased, executed a week before his death, was also invalid. The action was tried without a jury at Sandwich. LATCHFORD, J., in a written judgment, after summarising the evidence, stated his conclusions as follows. The plaintiff Robert Goodchild, as against his father and all persons claiming under his father, had and has a good title by possession to that part of lot 61 in the 7th concession of Malden referred to in the pleadings and containing 69 acres, 3 roods, 36 poles; and his father had no power by will or deed to dispose of this farm. James Goodchild has not a good title to the homestead. Up to 1909, possession of that farm was in his father, who had power to dispose of it by will or deed. The conveyance of the farms in Malden to Mrs. Wilcox is invalid, as is also the will. Both were made when the father was incapable of making a deed or a will. The evidence to the contrary was utterly incredible. Moreover, the dying man, so far as he had any mental power, was, at the time and long previously, completely under the dominion of his daughter Annie Wilcox. The deed and will fall together. The other deeds made at or about the same time are not in question in this action. If, however, the defendant Caldwell releases to the administrators the property attempted to be conveyed to him on the 23rd February, 1915, he will be entitled to a declaration that he has a half interest in the Morin farm. The plaintiffs are to be paid their costs by the defendant Annie Wilcox, excepting such costs as have been occasioned by the abortive attempt of James Goodchild to establish his claim to the homestead, which are to be borne by him. The defendants the London and Western Trusts Company are to have their costs out of the estate. No order as to costs of the other defendants. M. K. Cowan, K.C., and F. A. Hough, for the plaintiffs. F. D. Davis, for the defendant company and the defendant Caldwell. J. H. Rodd, for the defendants Annie Wilcox and other defendants.