

my opinion, it was—the learned Judge came to the conclusion that “they might have been mistaken,” though he did not disbelieve them.

The fact that the name of the appellant appeared in the leases at first prepared and executed by the lessors strongly supports her contention; and the theory that the appellant’s name was included, not because she had any interest in the leases, but to assist her husband in getting work if the leases were disposed of, which the learned Judge accepted, is, in my opinion, an improbable one, and so much out of the ordinary course of things that it would require corroboration to warrant its being accepted; and of corroboration there is none; but there is a body of testimony which, if true, is quite inconsistent with it.

I would reverse the finding of fact and substitute for it a finding that, according to the agreement of the parties, the appellant and the respondents Hill and Paget were to be jointly and equally interested in the venture and in the leases that were obtained.

If the appellant is entitled to enforce this agreement, notwithstanding the defence based on the Statute of Frauds, she is not, in my opinion, entitled to any relief against the respondents Waines and Root.

My conclusion upon the evidence is, that it was contemplated by all the parties to the agreement that the leases should be disposed of, and that they should share equally in the proceeds of the sale of them; and the full extent of the relief to which, on the hypothesis I have mentioned, the appellant is entitled, is, to be paid by the respondents Hill and Paget one-third of the proceeds of the sale to the other respondents.

There remains to be considered the effect of the Statute of Frauds.

In *In re De Nicols, De Nicols v. Curlier*, [1900] 2 Ch. 410, Kekewich, J., says (pp. 416-417): “It is settled that there may be an agreement of partnership by parol, notwithstanding that the partnership is intended to deal with land; and that in an action to enforce such agreement the plea of the Statute of Frauds will not avail. In such an action, therefore, the rights of the parties to the land, their respective interests in it, and their mutual obligations respecting it, may and must be determined and enforced notwithstanding that there has been no compliance with the statutory provision. The authorities for this are not numerous, but they are conclusive—namely, *Forster v. Hale*, 3 Ves. 695, 5 Ves. 308, and *Dale v. Hamilton*, 5 Hare 369, 2 Ph. 266. In the