

*Held*, affirming the decision of the Court of Appeal (18 Ont. App. R. 415), that no contract having been entered into pursuant to the tender and acceptance, the bond was only an agreement for which there was no consideration, and H. was not liable on it.

Appeal dismissed with costs.

*Lash, Q.C.*, and *Wilson, Q.C.*, for appellants.

*Osler, Q.C.*, and *Harley* for respondent.

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Ontario.]

HOWARD v. O'DONOHUE.

*Statute of Limitations—Possession—Caretaker—Acts of ownership.*

F. H. was the acting owner of certain real estate for some years prior to 1865, and O. was in possession under him as caretaker. In 1865, in a suit between F. H. and other members of his family, a decree was made declaring F. H. to hold as trustee for, and to convey certain proportions of the property to, the other members. O. continued in possession after this decree, and took proceedings at different times against trespassers and others, but always represented that he did so by authority from F. H., and he did not act as asserting ownership in himself until 1884, when he fenced a portion of the land. In an action against O. to recover possession of the land,

*Held*, reversing the judgment of the Court of Appeal (18 Ont. App. R. 529), that the effect of the decree in 1865 was not to alter the relations between F. H. and O.; that O. having once entered as caretaker, and having never disclaimed that he held as such for the necessary period to gain a title by possession, his possession continued to be that of a caretaker and he could not retain possession of the land against the true owners. *Ryan v. Ryan* (5 Can. S. C. R. 387) followed.

Appeal allowed with costs.

*McCarthy, Q.C.*, and *MacMurchy* for appellants.

*Reeve, Q.C.*, for respondent.

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Ontario.]

O'DONOHUE v. BEATTY.

*Solicitor—Bill of costs—Proceedings before taxing officer—Evidence of settlement—Appeal.*

The executors of an estate took proceedings to obtain from a solicitor of the testator an account and payment of monies in his hands due the estate. A reference was made to a taxing officer