

HON. MR. JUSTICE BRITTON.

FEBRUARY 26TH, 1914.

LIMEREAUX v. VAUGHAN.

5 O. W. N. 978.

Trusts and Trustees—Lands Purchased by Mother—Deed taken in Daughter's Name—Improvidence—Absence of Independent Advice—Declaration of Trust.

BRITTON, J., gave judgment for the plaintiff in an action to have it declared that defendant was the trustee of certain lands for the plaintiff, holding that the plaintiff, a simple elderly woman, had been defrauded out of such lands.

Non-jury trial.

Action to have it declared that lots 13 and 14 on the north side of Alberta avenue in the city of Toronto, are the property of the plaintiff, and that the defendant is in respect of said lands a trustee for the plaintiff.

S. H. Bradford, K.C., for plaintiff.

J. C. McRuer, for defendant.

HON. MR. JUSTICE BRITTON:—The defendant sets up that she is the absolute owner of this land, and asks that she be so declared. The action has unpleasant features, as it is a case of mother against daughter, the mother being an aged woman, about 85 years of age. The plaintiff had agreed to purchase these lands from Mrs. DuVernet for \$100, and had paid at least \$35 on account of that purchase. She found it inconvenient, and perhaps impossible, to make the payments regularly upon her purchase. She and her daughter came together—whether at the instance of the defendant, who knew plaintiff's position, or at the instance of the plaintiff, who desired help—I cannot say, as the evidence is conflicting, but the result was that the defendant's husband provided \$70, which Mrs. DuVernet accepted in full, and made the conveyance to the defendant.

The defendant says that she was willing to provide for her mother. No writing was given, no charge created on the land, nothing that plaintiff could shew or rely upon that she could have any interest in her property or any right to remain thereon.

The plaintiff is a simple-minded woman who for years has earned her money by nursing and by going out doing washing when she could get it to do, at \$1 a day.