

Q. B.]

NOTES OF CASES.

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daughter of James C., went to live with the latter and occupied a part of the house in obedience to John C., who desired his niece to remain in the house to take care of her infirm mother, who, however, objected to this arrangement. John C. died on the 2nd September 1874 and devised the land to the plaintiff. James C. died in 1873 or 1874, and his wife about a year afterwards. In 1875 one G., with the plaintiff's husband entered and went through the house with the view of renting it, when the defendant said if it was going to be rented he would rent it himself, and pay as much for it as any one, or would buy it. The action was commenced on the 30th March, 1879.

Held, that the plaintiff was entitled to recover as against the defendant who set up the Statutes of Limitations.

Per HAGARTY, C. J.. The defendant was never tenant to John C. during the lifetime of James C. and his widow, and that the statute would not begin to run in his favor till a year after the death of the latter.

Per ARMOUR, J. The entry of defendant in 1867 under John C.'s authority, determined the tenancy at will of James C. theretofore existing, and a new tenancy at will thereupon commenced. Upon the death of James C.'s widow, the defendant became tenant at sufferance to the plaintiff, and her entry by her husband with G. acquiesced in by the defendant, was a sufficient entry to create a new tenancy at will and stop the running of the statute.

Ferguson, Q. C., for plaintiff.

Robinson, Q. C., for defendant.

BARR V. DOON.

Deceit—Fraudulent representations as to mortgage—Duty of purchaser of.

The defendant was mortgagee of the plaintiff's farm, and the latter being unable to pay the mortgage, asked the defendant to buy it, and the defendant offered him therefor some cash and a mortgage for \$619, representing to him that the mortgage was a second mortgage, and that any money lender would readily cash it at a small discount, and so induced the plaintiff, an ignorant man, to accept it, when in fact the defendant knew that it was a fourth mortgage, and was almost worthless. The jury found for the plaintiff, on motion for a non-suit.

Held, that there was no obligation cast upon the plaintiff as a matter of law to examine the title or search the registry office, but that his omission to do so was matter for comment only.

Semble, that on sustaining the verdict, a reconveyance of the mortgage to the defendant might be ordered.

Nothing was said as to the amount of the prior mortgage, but the jury having found that the representation was false to the knowledge of the defendant, and was made with intent to deceive the plaintiff, and the verdict not being moved against on the weight of evidence, the Court refused to disturb the finding.

Hagel, for plaintiff.

McCarthy, Q. C., for defendant.

CLARK V. CREIGHTON.

Feme covert—Promissory note—Separate estate.

Action on a promissory note made by the defendant to a feme covert married after 2nd March, 1872, without a settlement, and C. her brother as trustees under their father's will for the purpose of raising money to pay some insurances on the trust estate.

The testator devised his real estate to his trustees, in trust to sell portions to pay debts, invest residue, and expend income in maintenance of the trustees and his other children, until the youngest should attain the age of 21, and on the youngest attaining that age, an equal division to be made amongst all the children, issue of deceased children to represent the parent.

Held, that until the coming of age of the youngest child, C. had no separate estate available in execution, and that she was not liable on the note.

ARMOUR J. dissented, holding that the true construction of the Married Woman's Property Act is impliedly to enable a feme covert to incur debts, to make engagements, and to enter into contracts as if she were a *feme sole*, and that the remedy in respect of any such debts, engagements, contracts or torts, should be against her personally, and should not depend upon whether she ever had any separate estate or not.

J. K. Kerr, Q. C., for plaintiff.

W. Nicholas Miller, for defendant.