

defraud and cheat his co-heirs, and particularly by representing that he had an equal share in the business as partner of his late brother, that he had not accounted for the capital invested by his brother, that he had undervalued the goods, possessed himself of the ready money and debts, and had augmented the liabilities of the partnership. As to the real estate he had fraudulently estimated it at less than half its real value. That he had affected to buy the shares of his two sisters, who had no rights, as they were civilly dead, being nuns of an order which prevented them from holding property, and that he had ostentatiously offered to give up the advantages arising from this transaction in order to induce the rest of the family to agree to the *partage* he was desirous of making. The other members, and particularly respondent, were induced by the false representations to agree to the *partage*.

It is also alleged that this inventory was not regularly made according to law, inasmuch as one of her sisters—Emelie—was a minor, and that there had been no *expertise* or curator appointed, and that therefore the whole proceeding was null, and should be set aside.

The conclusions of the action are that the inventory and the deed of *partage* should be set aside as fraudulent and null, that the appellant should be condemned to make a new inventory of the effects of the partnership, and that there should be a new inventory of the other property and effects of the succession, and a new *partage* of the whole.

The action was principally directed against Hyacinthe, who is held liable for all shortcomings, and the other members of the family are only summoned to hear the deed set aside, and to be made subject to the new inventory and *partage*.

By the judgment of the court below the plaintiff obtained the conclusions of her declaration so far as to have the inventory and *partage* of the 4th November, 1870, set aside as fraudulent and null, and a new inventory ordered.

The action is sufficiently comprehensive in general terms, and it is only to be regretted that the particular acts of fraud relied on had not been specified in detail. It is an unfortunate habit, and one not justified, I think, by the practice either in England or in France, to prove particular acts of fraud under the most

general allegations. Under such a system any person reckless and desperate may sue to set any transaction aside without the least ground. However, the want of detail in the action has not been objected to, and we are therefore obliged to follow the parties through all the wanderings of the plaintiff's evidence in search of something to support the allegations.

It seems to me that there are several preliminary observations it is well to make before proceeding to consider the details.

In the first place, the minority of Emelie, and the failure to observe the formalities of law in dealing with minors' rights, is not a claim in the mouth of the plaintiff. If the minor is contented with the *partage* and by his acts ratifies it, no one else has a right to complain.

Secondly, the respondent does not appear before the court in a very favourable position. She attacks the inventory and *partage* nine years after its execution, and subsequently to her having introduced a stranger into the family by a marriage, to which her relations had a good right to object. Besides this, we are told in the declaration that she had consented to the low valuation of the lands because they were going to her father and mother, and that she expected to be indemnified by the share she would receive in their succession. The object of making this admission evidently was to explain a consent which could hardly have been given through ignorance or owing to the fraud of the appellant. It was scarcely to be expected that a Court of Justice would believe that a woman who had passed nearly her whole life on and near these lands should not know their value to within 50 per cent. We, therefore, learn that not the fraud of appellant, not the ignorance of the respondent, but her calculation induced her to agree to the items of the inventory which deal with these lands. In her expectations she was not wholly disappointed, for by her father's will she had a legacy of \$500, exactly the same amount he left to her sister Emelie. This will was made in 1871, the father died in January, 1874, and yet she did not complain till 1879, but took advantage of the bequest. So this story is really not true, and we cannot fail to see that whether her accusations against her brother as to other matters be true or not, they are absolutely untrue as regards these lands,