

for 3 months before the assignment, at the rate of \$150 per month, and as an ordinary creditor for \$677.60 for money lent, salary, and interest. The action was tried without a jury at a Toronto sittings. MIDDLETON, J., in a written judgment, said that he could not bring himself to accept the evidence that there was an agreement by which the plaintiff was employed by his father (for the company) at a salary of \$150 per month. There was much in the surrounding circumstances that made this incredible. There should be judgment declaring the right of the plaintiff to rank for \$408.30 as an ordinary creditor. No costs. R. G. Smythe, for the plaintiff. G. H. Shaver, for the defendant.

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JANISSE v. CURRY—MIDDLETON, J.—DEC. 26.

*Trusts and Trustees—Disposition of Fund Representing Surplus Proceeds of Mortgage Sale—Executors—Account—Settlement—Right of Children of Settlers.*—Action for an accounting by the defendants of the surplus proceeds of a sale of land under a mortgage made to the trustees of the Cameron estate, and for payment to the plaintiff. The plaintiff was the divorced wife of the defendant Charles A. Janisse, and the action was brought against him and the executors of one Curry, the active trustee of the Cameron estate. The action was tried without a jury at Sandwich. MIDDLETON, J., in a written judgment, set out the facts and made certain findings with regard to the disposition of the fund, having regard to a settlement made in favour of the plaintiff and her children. He was of opinion that the interest of the children of the plaintiff and Charles A. Janisse was confined to the right to receive maintenance during minority. Three of the children, who were of age, had released their rights in favour of their mother, and the one child still an infant was being maintained by the mother. The accounts of the Curry executors should be accepted as they stood, and the executors should be paid, out of the fund, their costs subsequent to the date of payment into Court. The executors should be ordered to convey the house property purchased for the benefit of the mother and children to the husband and wife, and, after the death of both, as to three-fourths (undivided) interest to the heirs of the wife as grantee of the three adult children, and one-fourth (undivided) to the infant and her heirs. The money in Court should be declared to be the wife's and subject to her obligation to maintain the infant daughter during minority. The money should be paid out to the wife after the Official Guardian had been consulted as to what should be