

## SUPREME COURT.

Tuesday, June 27.

### CIVIL SITTINGS.

Before his Honour Mr. Justice Chubb.  
Hendle and Another v. Qualtrough.—  
(Partly Heard.)

Mr. Stumm, with him Mr. Fewings (instructed by Messrs. Atthow and M'Gregor), for the plaintiffs; Mr. E. M. Lilley (instructed by Messrs. Roberts and Roberts) for the defendant.

In this case, heard last week before his Honour and a jury, the motion for judgment had been adjourned. The action was in respect of a piece of property in Brunswick-street, which, in 1866, was transferred by the then owner, George Heirdsfield, deceased, to the late W. H. Qualtrough. The plaintiffs, two of the children of Heirdsfield, claimed that the land was transferred in trust for themselves and the deceased's other children, and they sought to obtain a share of the proceeds of the subsequent sale. The jury found that there was no trust in respect of this property, but answered questions in respect of certain other property which had been settled upon Mrs. Hendle by Mrs. Qualtrough in Mrs. Hendle's favour.

Mr. Stumm now moved for judgment for the plaintiffs, Lucy Hendle and W. J. Hendle, on the answers to question 5, 7, and 8 for a declaration that she was entitled to have the land at Lutwyche transferred to her in fee-simple, free from any encumbrances, and to have the same vested in her and her husband. He also asked for a direction that the land should be transferred within one week, or in default that judgment should be entered for plaintiffs for £325 and interest.

Mr. Lilley moved for judgment for defendant, with costs. His contention was that she was told all along that she would not get money, but the land in question. The land settled in the way it was had superseded any rights which she might have had in regard to having it settled upon herself, or to being given it in her own name. It was to be held in trust, and the deeds were not to be given to her in her own name. In fact, she took this in substitution for anything she was entitled to, if she was entitled to anything. He further contended that the children were entitled to be heard.

Mr. Stumm objected to the findings of the jury being disregarded or set aside. He held that the whole of Mr. Lilley's argument was based upon a disregard of findings 5 and 8.

His Honour said he would not disregard the findings of the jury if there was any evidence at all to support them.

Mr. Stumm, after argument, said all he had to show was that the findings of the jury were not entirely perverse; he contended that they had found in accordance with the evidence.

Mr. Lilley, in reply, held that the trust was a voluntary one, and could not be altered in the interests of the plaintiffs.

His Honour reserved his decision.

The court then adjourned.

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