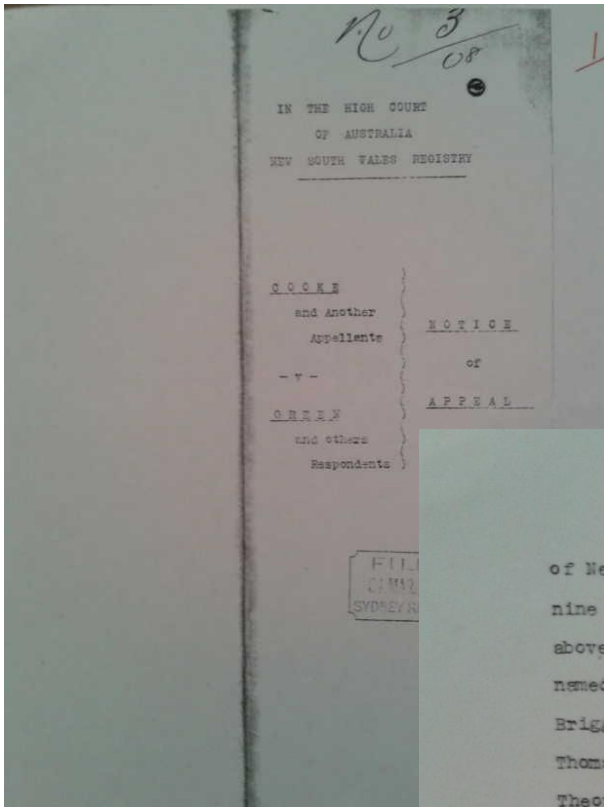


Affadavit filed in the High Court by Wesley Cooke Green.



of New South Wales dated the Tenth day of March One thousand nine hundred and eight and made in the suit in which the abovenamed Wesley Cooke Green is Plaintiff and the abovenamed Henry Peter Cooke Arthur Whiggs Peter Cook Jane Briggs the wife of Henry Brigg Grace Ethel Green John Thomas William Green William Jonathan Cooper Green Theophilus Victor Elishmah Green and Barnabas Ursiel Green and Daisy Nightingale Green and Rupert Centennial Curmwall Green the two last named being infants under the age of Twenty-one years are Defendants upon the following amongst other grounds :-

1. THAT at the death of the said Mary Cooke the said lands were held by her for her separate use at law and in equity and passed under her Will to the appellant Henry Peter Cooke
2. THAT under the Crown Lands Alienation Acts and the Regulations thereunder the lands in question being Conditional Purchase and Additional Conditional Purchase lands were and could only be held by the said Mary Cooke a married woman for her separate estate
3. THAT His Honor having held that the said Mary Cooke originally took the said lands to her separate use none of the subsequent dealings by her had the effect or were intended to have the effect of destroying such existing separate estate.

INTERESTING EQUITY SUIT.

GREEN V. COOKE, WHIPPS, AND OTHERS.

MR JUSTICE A. H. SIMPSON has had an interesting case before him in the Equity Court since Thursday of last week.

This was a suit arising out of the disputed ownership of two blocks of land at Broadwater, each containing 180 acres. The plaintiff was Wesley Cook Green, and the defendants, Henry Peter Cooke, Peter Cooke, Arthur Whipps, and others.

Mr. Leverrier (instructed by Mr. W. F. Brennan) appeared for the plaintiff; Dr. Coghlan (instructed by Mr. W. T. Flynn) for the defendant Arthur Whipps; Mr. Mann (instructed by Mr. H. W. Forster) for the defendant H. P. Cooke.

The case for the plaintiff was that in August, 1891, the defendant Peter Cooke and his mother, Mary Cooke, transferred the allotments to the said Mary Cooke as sole owner. Mary Cooke, who was plaintiff's grandmother, died on September 7, 1895, leaving a will made in October 1882, and letters of administration were granted to the defendant H. P. Cooke in 1896. About the year 1900, H. P. Cooke, who claimed to own the land, purported to sell the property to the defendant Whipps. The transfer, it was stated, was not registered, nor had Whipps paid the purchase money. Mary Cooke left as next-in-kin her husband, Peter Cooke, since deceased, three children, Peter Cooke, H. P. Cooke, and Jane Brigg (wife of Henry Brigg), and eight grandchildren, children of her deceased daughter, Ellen Green, of whom plaintiff is one.

Plaintiff asked that it might be declared that Mary Cooke died intestate as to the land in question; that the defendant H. P. Cooke be restrained from transferring the land to the defendant Whipps, or in any way dealing with it other than as regards his beneficial interest in it as one of the next-of-kin; that defendant H. P. Cooke be ordered to furnish an account of all rents and profits, and that the amount found to be due be charged against his beneficial interest in the property; that a receiver be appointed, and defendant Whipps be ordered to deliver up possession of the land to such receiver; that Whipps be charged occupation rent for the time he had been in possession; that the land might be sold by the Court for the purpose of distribution among the parties entitled to participate; and that, if necessary, the estate of Mary Cooke be administered by the Court.

For the defence, H. P. Cooke stated that the land was transferred by him to his mother, who re-transferred it to him and his brother Peter. The transfer by him was made on the faith of a promise made by his mother that she would hold the property as trustee for him, his brother being afterwards joined as trustee with her. Improvements were carried out to benefit him as owner of the land, and it was understood the property was to pass to him under his mother's will, and by that will she devised it to him for his own use. His

brother Peter joined in the agreement for sale to Whipps in 1904. Defendant submitted that he was entitled to the land, and that the suit should be dismissed with costs.

Defendant Whipps set out that he purchased the land from H. P. Cooke, believing him to be absolute owner, and had spent about £600 in improvements. He claimed that, if the Court decided that Mary Cooke died intestate, he was entitled to be repaid the money he had spent, and to have a lien on the land for the amount expended by him.

Evidence is now proceeding in the suit.

EQUITY.

(Before Mr. Justice A. H. Simpson.)
DISPUTED OWNERSHIP OF LAND.

Judgment was given in the suit arising out of the disputed ownership of two blocks of land at Broadwater, near Lismore. The plaintiff was Wesley Cook Green, and the defendants, Henry Peter Cook, Peter Cook, Arthur Whipps, and others.

Mr. Leverrier (instructed by Mr. W. F. Brennan) appeared for the plaintiff; Dr. Coghlan (instructed by Mr. W. T. Flynn) for the defendant Arthur Whipps; Mr. Mann (instructed by Mr. H. W. Forster) for the defendants, H. P. Cook and P. Cook; Mr. J. L. McLaughlin (of Messrs. John McLaughlin and Sons) appeared for the infant defendants.

His Honor stated that by an agreement of July 27, 1899, Henry Peter Cook and Peter Cook agreed to sell to Arthur Whipps 320 acres, made up of 180 acres and 150 acres of land near Lismore. Plaintiff disputed the right of the two Cooks to sell the 150 acres in its entirety, but did not dispute that they were each entitled to quarter shares of it, which, of course, they had a right to sell. Mary Cook died in September, 1895, and by her will bequeathed to Henry Peter Cook 180 acres of land, and other land to Peter Cook. She left as her next-of-kin two sons (Henry Peter Cook and Peter Cook), one daughter (Mrs. Brigg), and eight children of a deceased daughter (Mrs. Greene), who were all parties to the suit. The question was whether the devise of the 150 acres under the will of Mrs. Cook was valid? This depended upon the question whether she held the transferred interest in the 180 acres for her separate use. If she did it was not disputed that she could dispose of it by will; if not, she had no power to dispose of it by will, and, as to that particular area, she died intestate. In this case plaintiff, who was the son of Mrs. Greene was entitled to one-eighth of a quarter interest, that was to say he was entitled to one-thirty-second share in the 180 acres. As to the 150 acres, his Honor found that Mrs. Cook died intestate.

His Honor intimated that before making a decree he would hear counsel as to its precise form.

EQUITY.

(Before Mr. Justice A. H. Simpson.)
A VALUABLE LISMORE PROPERTY.
GREEN V. COOKE.

This was a suit arising out of the disputed ownership of two blocks of land at Broadwater, near Lismore, each containing 180 acres. The plaintiff was Wesley Cook Green, and the defendants, Henry Peter Cooke, Peter Cooke, Arthur Whipps, and others.

Mr. Leverrier (instructed by Mr. W. F. Brennan) appeared for the plaintiff; Dr. Coghlan (instructed by Mr. W. T. Flynn) for the defendant Arthur Whipps; Mr. Mann (instructed by Mr. H. W. Forster) for the defendant H. P. Cooke.

The taking of evidence was concluded.
The case stands part-heard.

**INTERESTING EQUITY SUIT.
GREEN V. COOKE, WHIPPS, AND
OTHERS.**

MR JUSTICE A. H. SIMPSON has had an interesting case before him in the Equity Court since Thursday of last week.

This was a suit arising out of the disputed ownership of two blocks of land at Broadwater, each containing 180 acres. The plaintiff was Wesley Cook Green, and the defendants, Henry Peter Cooke, Peter Cooke, Arthur Whipps, and others.

Mr. Leverrier (instructed by Mr. W. F. Brennan) appeared for the plaintiff; Dr. Coghlan (instructed by Mr. W. T. Flynn) for the defendant Arthur Whipps; Mr. Mann (instructed by Mr. H. W. Forster) for the defendant H. P. Cooke.

The case for the plaintiff was that in August, 1891, the defendant Peter Cooke and his mother, Mary Cooke, transferred the allotments to the said Mary Cooke as sole owner. Mary Cooke, who was plaintiff's grandmother, died on September 7, 1895, leaving a will made in October 1882, and letters of administration were granted to the defendant H. P. Cooke in 1896. About the year 1900, H. P. Cooke, who claimed to own the land, purported to sell the property to the defendant Whipps. The transfer, it was stated, was not registered, nor had Whipps paid the purchase money. Mary Cooke left as next-in-kin her husband, Peter Cooke, since deceased, three children, Peter Cooke, H. P. Cooke, and Jane Brigg (wife of Henry Brigg), and eight grandchildren, children of her deceased daughter, Ellen Green, of whom plaintiff is one.

Plaintiff asked that it might be declared that Mary Cooke died intestate as to the land in question; that the defendant H. P. Cooke be restrained from transferring the land to the defendant Whipps, or in any way dealing with it other than as regards his beneficial interest in it as one of the next-of-kin; that defendant H. P. Cooke be ordered to furnish an account of all rents and profits, and that the amount found to be due be charged against his beneficial interest in the property; that a receiver be appointed, and defendant Whipps be ordered to deliver up possession of the land to such receiver; that Whipps be charged occupation rent for the time he had been in possession; that the land might be sold by the Court for the purpose of distribution among the parties entitled to participate; and that, if necessary, the estate of Mary Cooke be administered by the Court.

For the defence, H. P. Cooke stated that the land was transferred by him to his mother, who re-transferred it to him and his brother Peter. The transfer by him was made on the faith of a promise made by his mother that she would hold the property as trustee for him, his brother being afterwards joined as trustee with her. Improvements were carried out to benefit him as owner of the land, and it was understood the property was to pass to him under his mother's will, and by that will she devised it to him for his own use. His

mother's will, and by that will she devised it to him for his own use. His brother Peter joined in the agreement for sale to Whipps in 1904. Defendant submitted that he was entitled to the land, and that the suit should be dismissed with costs.

Defendant Whipps set out that he purchased the land from H. P. Cooke, believing him to be absolute owner, and had spent about £600 in improvements. He claimed that, if the Court decided that Mary Cooke died intestate, he was entitled to be repaid the money he had spent, and to have a lien on the land for the amount expended by him.

Evidence is now proceeding in the suit.

EQUITY COURT.

(Before Mr. Justice A. H. Simpson.)

OWNERSHIP OF LAND NEAR LISMORE.

Green v Cooke and others.

Mr. Leverrier, instructed by Mr. W. F. Brennan, appeared for the plaintiff; Dr. Coggan, instructed by Mr. W. F. Flynn, for defendant Arthur Whipps; Mr. Mann, instructed by Mr. H. W. Forster, for defendant H. P. Cooke.

This was an action respecting the ownership of two blocks of land, of 180 acres each, at Broadwater, near Lismore. Plaintiff was Wesley Cooke Green, and the defendants were Henry Peter Cooke, Peter Cooke, Arthur Whipps, and others.

The statement of claim set forth that in August, 1881, the defendant Peter Cooke and Mary Cooke transferred the lands in question, and they became the property of Mary Cooke, who was plaintiff's grandmother. She died on September 7, 1895, having previously made a will in October, 1882. Letters of administration with the will annexed were granted to the defendant H. P. Cooke, in October, 1896. About 1900, H. P. Cooke claimed the rents and profits of the land, and asked that amounts found to be due be charged against his beneficial interest in the property. Plaintiff prayed that a receiver be appointed, and the defendant Whipps ordered to deliver up possession of the land to him, and be charged with a fair occupation rent during the time he had been in possession; that the lands might be sold by the Court for the purpose of distribution among the parties entitled to participate; and that, if necessary, the estate of Mary Cooke, might be administered by the Court.

The case stands part heard.

(Before Mr. Justice Street.)

MOTION FOR WINDING UP.

Re the Williams Meat Company, Ltd.

Mr. R. K. Manning, instructed by Messrs. Perkins, Stevenson, and Co., appeared for the petitioners, Moses Moss and Co, Thomas Alfred Field, and the Union Box and Packing Case Company, Ltd., and moved for an order for the winding up of the Williams Meat Company, Ltd., under the Companies Act, and for the appointment of an official liquidator. Counsel handed in a list of creditors representing debts amounting to about £2000. Mr. Rich, instructed by Mr. Alfred Mitchell, appeared for the respondent company, and the liquidator in the voluntary winding up, to submit to the order asked for. He, however, said that the voluntary winding up was practically completed, and he asked for remuneration to the liquidator in the voluntary winding up, and the costs in connection with the petition.

The application for winding up was granted and the official assignee next in rotation was appointed liquidator; question of the costs of the liquidator in the voluntary winding

Equity Court, Sydney.

GREEN V. COOKE.

THIS was a suit arising out of the disputed ownership of two blocks of land at Broadwater, Richmond River, each containing 180 acres. The plaintiff was Wesley Cook Green, and the defendants, Henry Peter Cooke, Peter Cooke, Arthur Whipps, and others.

Mr. Leverrier (instructed by Mr. W. F. Brennan) appeared for the plaintiff; Dr. Coghlan (instructed by Mr. W. T. Flynn) for defendant Arthur Whipps; Mr. Mann (instructed by Mr. H. W. Forster) for the defendant H. P. Cooke.

The case for the plaintiff was that in August, 1891, the defendant Peter Cooke and his mother, Mary Cooke, transferred the allotments to the said Mary Cooke as sole owner. Mary Cooke, who was plaintiff's grandmother, died on September 7, 1895, leaving a will made in October, 1882, and letters of administration were granted to the defendant H. P. Cooke, in 1896. About the year 1900, H. P. Cooke, who claimed to own the land, purported to sell the property to defendant Whipps. The transfer, it was stated, was not registered, nor had Whipps paid the purchase money. Mary Cooke left as next-of-kin her husband, Peter Cooke, since deceased, three children, Peter Cooke, H. P. Cooke, and Jane Brigg (wife of Henry Brigg), and eight grandchildren, children of her deceased daughter, Ellen Green, of whom plaintiff is one.

Disputed Ownership of Land.

In the Equity Court, Sydney, on Friday, before Mr. Justice A.H. Simpson, judgment was given in the suit arising out of the disputed ownership of two blocks of land at Broadwater, near Lismore. The plaintiff was Wesley Cook Greene, and the defendants, Henry Peter Cook, Peter Cook, Arthur Whipps, and others.

Mr. Leverrier (instructed by Mr. W. F. Brennan) appeared for the plaintiff; Dr. Coghlan (instructed by Mr. W. Flynn) for the defendant Arthur Whipps; Mr. Mann (instructed by Mr. H. W. Foster) for the defendants, H. P. Cook and P. Cook; Mr. J. L. McLaughlin and Sons) appeared for the infant defendants.

His Honor stated that by an agreement of July 27, 1899, Henry Peter Cook and Peter Cook agreed to sell to Arthur Whipps 330 acres, made up of 180 acres and 150 acres of land near Lismore. Plaintiff disputed the right of the two Cooks to sell the 150 acres in its entirety, but did not dispute that they were each entitled to quarter shares of it, which, of course, they had a right to sell. Mary Cook died in September, 1895, and by her will bequeathed to Henry Peter Cook 180 acres of land, and other land to Peter Cook. She left as her next-of-kin two sons (Henry Peter Cook and Peter Cook), one deceased daughter (Mrs. Brigg) and eight children of a deceased daughter (Mrs. Greene), who were all parties to the suit. The question was whether the devise of the 180 acres under the will of Mrs. Cook was valid. This depended upon the question whether she held the transferred interest in the 180 acres for her separate use. If she did it was not disputed that she could dispose of it by will; if not she had no power to dispose of it by will, and as to that particular area

by will, and as to that particular area she died intestate. In this case plaintiff, who was the son of Mrs. Greene was entitled to one eighth of a quarter interest, that was to say he was entitled to one-thirty-second share in the 180 acres. As to the 180 acres, his Honor found Mrs. Cook died intestate. His Honor intimated that before making a decree he would hear counsel as to its precise form.
