

reference to the incidence of the executors' compensation and costs regarding the execution of the trusts declared as to the same lot.

The testator gave his farm and certain other lands to his son Robert, charged with the payment of \$2,500 to his daughter Mary. He then gave his executors lot No. 17 upon trust, with power to sell, and out of the proceeds to pay to Mary \$2,500, "also to pay \$2,000 toward paying my just debts"; the residue to be invested for the benefit of the children of the deceased son William, and to be divided between them when they attain age. The residue of the estate, real and personal, after payment of the testator's debts, is then to go to Robert.

At the time of the testator's death he was indebted in a considerable sum, far exceeding the two thousand dollars. He left property of very substantial value other than that specifically devised.

The first question is this: Can Robert, as residuary devisee, call upon the executors for the \$2,000 towards the debts, or are the proceeds of that lot only to be resorted to if the residuary estate is not sufficient to pay the debts?

It is said that the words used are not sufficient to charge the proceeds of this realty and to exonerate *pro tanto* the residuary estate, because the residue is to go to Robert "after the payment of my just debts."

I do not think that this is the real meaning of the will. The testator, I think, intended \$2,000, part of the proceeds of lot 17, to be applied in and towards payment of his debts, and then gave the residue after the debts had been paid—that is, after the residuary estate had been resorted to to the extent necessary to supplement the \$2,000—to his son Robert.

Reading the will as a whole, and without seeking to import into it technical rules that probably were not present to the mind of the testator, his language seems to me plain and sufficient.

The second question depends upon the effect to be given to the principle laid down in *Re Church*, 12 O. L. R. 18. There the testatrix directed her residuary estate to be divided into four equal shares, three of which were to be paid over at once and the fourth to be held upon trusts covering an extended period of time. It was held that the expense of administering the trust after the share in question had been set apart, should be borne by the share itself and not by the general estate.