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No. 2.

HIGH COURT OF JUSTICE.

MIDDLETON, J.

SEPTEMBER 23RD, 1910.

RE RYAN.

Will—Construction—“While he is Unmarried”—Occupation of Residence—License—Termination on Marriage—Residuary Devise Taking Effect upon Marriage—Tenancy in Common—Right of Possession.

Motion by Mary Alice Smith and Alfonso Francis Smith for an order determining whether, in the events which have happened, one John Thomas Ryan, referred to in the will of Margaret Ryan, deceased, has any right or interest in a certain parcel of land and residence in Rosedale referred to in paragraphs 2 to 8 of the will, and, if so, what such right or interest may be.

The will of Margaret Ryan was dated the 29th September, 1900; she died in February, 1904.

Paragraphs 2 to 8 of the will were as follows:—

“2. I hereby devise to my trustees hereinafter named my residence in Rosedale, in the city of Toronto, to hold upon the following trusts namely.

“3. In trust for my son John T. Ryan during his natural life and while he is unmarried but on condition that he do not sell, alienate, convey or lease or let the same or any part thereof or any interest therein or attempt to do so, and on further condition that he will permit and allow my two daughters and my grandson Alfonso Francis Smith while such grandson is unmarried, and each of them, to reside also in the said residence jointly and equally with him, but this right to any daughter of mine to so reside shall be suspended for the time that such daughter shall not be living in the manner that she now lives. By the phrase ‘in the manner she now lives’ I mean in regard to each daughter during her widowhood or while she is living apart from any present or