

various amounts to seven named charitable institutions, coupled with a condition that within four years of his decease each of the legatees should raise by voluntary subscriptions an amount equal to the legacy bequeathed to such legatees. And if any of the legatees failed to raise within the specified time the required sum, then the legacy bequeathed to them should be offered to the other legatees, on the same terms of raising an equivalent sum, observing their order as regards priority, and giving each a reasonable time to raise the required amount, and such of the legacies as were not taken up within seven years of the testator's decease were to form part of his residue. Some of the legatees issued circulars soliciting subscriptions on the representation that if the required amount was raised the legatees would be entitled to the legacy given by the testator, and on the faith of this representation the required amount was raised, but it turned out that, owing to the money not having been obtained within the four years, the terms of the will had not been complied with and the legacies were not payable. In order to avail themselves of the terms laid down in the will in regard to the deferred legacies, the charitable institutions concerned issued a circular explaining the reason of the failure to secure the original legacy, and asking the subscribers to allow their subscriptions to be applied towards a fund in order to entitle the legatees to the deferred legacies, and this they agreed to do, and the amount required to entitle the legatees to take the deferred legacies was thus raised. The point, however, was raised on behalf of the residuary legatees, whether the amounts originally subscribed to meet the original legacies could, by consent of the donors, be thus transferred to a fund to entitle the legatees to the deferred legacies, and that question depended for its solution on what are the legal and equitable rights of donors to moneys given by them on the faith of an innocent misrepresentation; for if they have the right to claim a return of their money, then they have a right to dispose of it by applying it to a fund to meet the deferred legacies. The Court of Appeal (Lindley, M.R., and Williams and Romer, L.JJ.) were of opinion that a donor has an equitable right (though perhaps not a legal right) under such circumstances to have his money refunded, and, that being the case, they held that the donors' consent was efficacious to transfer their subscriptions to a fund to meet the deferred legacies, and the decision of North, J., to the contrary was consequently reversed.