

LENNOX, J.

DECEMBER 23RD, 1919.

RE NOYES.

Will—Construction—Inartistic Provisions for Sale of Estate and Disposition of Proceeds—Provision for Payment of Shares of Daughters at Age of 20—Payment into Court—Payment out—Costs.

Motion by the administrators with the will annexed of the estate of Constance Maud Noyes, deceased, for an order determining the meaning and effect of the will.

The motion was heard in the London Weekly Court.

E. W. M. Flock, for the administrators.

J. M. McEvoy, for John Guy Noyes, the husband of the deceased.

F. P. Betts, K.C., for the Official Guardian, representing the infant children of the deceased.

LENNOX, J., in a written judgment, said that the will was drawn by the testatrix, and was in the following terms:—

"I Constance Maud Noyes hereby direct in case of my decease that my husband John Guy Noyes act of sole trustee and become beneficiary of my property 787 Richmond Street London Canada under the following conditions—viz. that one thousand dollars of sale price be paid into the Bank for Gladys Laura Noyes and Violet Maud Noyes—equal share and this money shall not be touched till Violet Maud Noyes attains the age of twenty years—but Gladys Laura Noyes is to receive her share on her twentieth birthday—Should either child be deceased when their share falls due the surviving child is to become sole beneficiary—Should both be deceased—Gerald Haighton Noyes is to become sole claimant."

The testatrix intended, although she did not say so in so many words, that her property should be sold—and that had been done—and that, as a first charge on the proceeds, a clear \$1,000 should be set apart for her two daughters, Gladys Laura and Violet Maud, and that the residue of the proceeds after payment of all outlays should go to her husband.

The husband must see that the \$1,000 is paid before he looks for anything. It will be paid in the legal sense when it is paid into Court.

The words "the surviving child is to become sole beneficiary" mean sole beneficiary of the specific sum of \$1,000, and the contingent right of Gerald Haighton Noyes is limited in the same way.

The words, "this money shall not be touched till Violet Maud