

other half of the "property" were devised and bequeathed to the granddaughter, Louisa, "to be held by her during her life and at her death to her heirs and assigns forever."

The sister contended that she took the property absolutely—the brother, that she took a life-estate only.

The testator may have meant to give Louisa a life-estate only; but, in so far as lands are affected, the question is not, what did the testator mean? but, what meaning does the law attach to the technical words which he used?

It was clear that the testator had used words which carried the fee simple: *Van Grutten v. Foxwell*, [1897] A.C. 658.

But a considerable part of the property was not land. What rule was to be applied to the chattel property?

Smith v. Butcher (1878), 10 Ch. D. 113, and *Comfort v. Brown* (1878), *ib.* 146, referred to.

Realty and personalty were comprised in the one gift. The ruling being that the testator gave the land to the granddaughter absolutely, it must be held that the chattels went in the same manner: see *De Beauvoir v. De Beauvoir* (1852), 3 H.L.C. 524.

Therefore, Louisa Tipling took absolutely the property devised and bequeathed to her.

There should be no order as to costs.

After 10 days, if there should be no appeal, an order for payment out of the moneys in Court to the credit of the estate, in accordance with the above rulings, may be taken out.

ROSE, J., IN CHAMBERS.

JUNE 1ST, 1918.

RE CRUSO v. BROWN AND DOLGOFF.

Mortgage—Motion for Leave to Bring Action for Foreclosure where Principal only in Arrear—Mortgage Made before August, 1914—Mortgagors and Purchasers Relief Act—Leave Granted unless Principal Reduced and Rate of Interest Increased.

In the matter of a proposed action by Catherine Margaret Cruso against Oscar J. Brown and Jacob Dolgoff, and in the matter of the Mortgagors and Purchasers Relief Act, 1915, a motion was made on behalf of Catherine Margaret Cruso for an order, under the said Act, giving her leave to institute and prosecute an action for foreclosure in respect of a mortgage made by Jacob Dolgoff to her, dated the 15th November, 1912, to secure \$2,300; Oscar