

true construction of the will of the deceased, it was the duty of the executors, after the death of the testator's sister Christiann Bolls, to convey certain lands in fee to her daughter Mary Bell Bolls (now Mary Bell Beaton), or to hold such lands until the death of Mrs. Beaton, in order to ascertain to whom such lands should then be conveyed.

The will of the testator, a retired farmer, was made on the 2nd July, 1881. He signed it by his mark in the presence of two witnesses, one described as a farmer, the other as a gentleman. There is no direct evidence of the circumstances attending the making of the will. McDonald died on the 24th November, 1881, and probate was duly granted to the executors named in the will on the 3rd December, 1881.

The will devised the lands in question to the executors "in trust to be managed or rented by them as best they may," and the net proceeds were to be paid yearly and every year to the testator's sister Christiann Bolls during her natural life. The will then proceeds: "After the death of my sister the surplus . . . from said farm to be paid yearly by my executors to my sister's daughter Mary Bell Bolls, if alive, during the term of her natural life, or if she has family legally begotten then the said farm to be given by my executors to the said Mary Bell, but provided she, the said Mary Bell, dies without having any lawful heirs, then my executors to give up the management of said farm to the Township Council of the Township of Lobo and their successors in office to be managed or sold, and if sold the proceeds to be invested and the interest or rent to be applied for the benefit of the poor in the County of Middlesex's House of Refuge or House of Industry near the town of Strathroy."

At the date of the testator's death, as at the date of the will, Mary Bell Bolls was unmarried. It was obviously present to the mind of the testator that, upon the death of the life-tenant, her daughter might be (1) living and unmarried, (2) dead without lawful issue, (3) living and having lawful issue. Only in the second event could the Township of Lobo claim. The third contingency provided for actually occurred. At the death of Mrs. Bolls in 1908, her daughter, Mrs. Beaton, was alive and had lawful issue living. The executors are, in my opinion, bound to convey the farm to her in fee.

Costs of all parties out of the estate—those of the executors as between solicitor and client.