

Percy, Richard, and Lottie (wife of Nicholas Kupper). On the 29th December, 1912, Lottie died without issue; her husband survived her. Richard died in December, 1917, leaving a widow, but no children. In the lifetime of Richard, he and Percy signed a release and transfer of their interests under the will to their mother. Percy now consented that his share should go to his mother. It appeared from the material filed that Lottie in her lifetime also agreed that the whole of the legacy under clause 2 (a) should be paid to her mother, but never signed any actual release. Nicholas Kupper refused to sign one, and now contended that his wife took a vested interest under clause 2 (a), and that he had an interest through her. The widow of Richard had not been served.

It appeared that in 1914 the executors paid to Eliza J. Barnes \$1,000 on account of the one-third part referred to in clause 2 (a). Apart from this, the income derived from the respective parts referred to in clause 2 (a) and 2 (b) had been paid to the widows of Ebenezer and John respectively. (No question arose under clause 2 (b)). The executors appeared to have acted upon the opinion and belief that, in the circumstances, the whole of the moneys should be paid to the two widows.

In the learned Judge's opinion, Nicholas Kupper and the widow of Richard were not entitled to any interest in the one-third part referred to in clause 2 (a), and that part should now be paid to Eliza J. Barnes. The one-third part referred to in clause 2 (b) should now be paid to the widow of John. An account should be taken as of the date when the real estate was sold. As between the two widows, the \$1,000 paid to Eliza J. Barnes must be taken into account.

Order declaring accordingly; the executors to have their costs as between solicitor and client out of the estate; the two widows to have their costs out of the estate; no costs to Kupper.

SUTHERLAND, J.

FEBRUARY 4TH, 1920.

ELLIOTT v. ORR GOLD MINES LIMITED.

EMMONS v. ORR GOLD MINES LIMITED.

Company—Proposed Sale of Assets—Fraud on Minority Shareholders—Inadequacy of Price—Non-disclosure of Actual Transaction to Minority—Qui tam Actions by Shareholders—Injunction.

The plaintiff in each action sought a declaration that a proposed sale of mining claims was a fraud upon him and the shareholders