

George Kerr, for plaintiff, contended that the defendant, the father, was entitled only to a life interest in the moneys bequeathed to him.

W. E. Middleton, for defendant, claimed an absolute interest.

MACMAHON, J., referred to and quoted from *Percy v. Percy*, 24 Ch. D. 616; *Richards v. Jones*, [1898] 1 Ch. 438; *In re Elma Walker*, [1898] Ir. R. 1 Ch. 5; *Henderson v. Cross*, 29 Beav. 216; *Walkim v. Wilkins*, 3 M. & G. 622; *Bowes v. Goslett*, 27 L. J. Ch. 249; and proceeded:

The bequest in the will of Wilfred E. Osterhout in favour of defendant is "with reversion to my brother on the decease of my father."

The word "reversion" is meaningless in so far as it attempts to create a gift over in favour of the testator's brother.

I have examined carefully the cases relied upon by counsel for plaintiff—*Bibbons v. Potter*, 10 Ch. D. 733; *Sanford v. Sanford*, [1901] 1 Ch. 939; *Williams v. Pounder*, 56 L. J. Ch. 113; *Constable v. Bull*, 3 DeG. & Sm. 411. . . .

In my opinion the case in hand is widely distinguishable from the above cases.

There will be judgment declaring that defendants took an absolute interest in the moneys and securities for money, &c.

No costs.

FALCONBRIDGE, C.J.

OCTOBER 12TH, 1903.

WEEKLY COURT.

CHANDLER v. GIBSON.

Improvements—Allowance for—Mistake—Title—Use and Occupation—Interest—Parties.

Appeal by plaintiffs from report of local Master at Chatham and cross-appeal by defendant Scane from the same report. The Master found that the value of the lands in question in this action, which had been enhanced by the lasting improvements made by defendant Scane under mistake of title since the date of the deed from Moses Chandler to him, was \$1,119.60; that the value of the lands at the date of the deed was \$1,000; that the present value of the lands is \$2,100, and the increase was attributable wholly to the lasting improvements; that the plaintiffs were entitled to \$305 for use and occupation from the death of Moses Chandler to 22nd July, 1902, and from that date to the time of delivery of possession to plaintiffs to an annual rent of \$100 and taxes; that the sum in excess of occupation rent to which defendant