

make the loans and grateful to them for doing so. There was nothing to indicate that she was in any way under her husband's influence or was deceived or misled by him or by any one else. These being the facts, Mrs. Michie could not be relieved of liability on the ground that she had no independent advice.

Reference to *Stuart v. Bank of Montreal*, [1911] A.C. 120; *Chaplin & Co. Limited v. Brammall*, [1908] 1 K.B. 233; *Howes v. Bishop*, [1902] 2 K.B. 390; *Euclid Avenue Trusts Co. v. Hobs* (1911), 23 O.L.R. 377, 24 O.L.R. 447; and other cases.

Judgment for the plaintiffs against the defendant Mabel G. Michie for \$5,000, with suitable interest as asked, and costs.

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SUTHERLAND, J.

JULY 8TH, 1915.

RE CATHCART.

*Will—Construction—Devise—Gift over—Repugnancy—Estate in Fee Simple.*

Application by the widow and executrix of the will of John Cathcart, deceased, for an order determining a question of construction arising upon the terms of the will.

The testator directed his executrix to pay his debts and funeral and testamentary expenses, and gave the residue to her in trust: (1) for the sole use and benefit of herself and her daughter Nettie Mabel "for and during their lives and the life of the survivor of them in fee simple;" (2) "in case my said daughter dies without leaving issue her surviving and on the death of my said wife, my estate then remaining shall go to and for the use of Eva Frizell . . . and I direct my said estate or what remains thereof to be in that case conveyed and transferred unto the said Eva Frizell if then living and if not then unto her heirs at law in equal shares;" and (3) he gave his executrix power to sell and convert any part of his estate, and to invest and reinvest etc.

The motion was heard in the London Weekly Court.

J. B. Davidson, for the widow and the daughter of the testator.

T. J. Murphy, for Eva Frizell.

A. A. Ingram, for the Solicitor for the Treasury.