

No such intention is to be found, however, in the present case. If anything further were necessary to shew that Esther Dunkley did not become entitled to these moneys on her mother's death, it is found in her admission to Dagneau above referred to, that the money was her mother's.

Prior to her mother's death she does not appear to have considered herself in any way interested in the money. On the evidence of Dagneau and from the evident concern which she shewed about the making of the will, it is difficult to understand how she could have believed that she was entitled to it.

I therefore find that there was no intention on the part of the mother to make the daughter the owner or part owner of the money or to give it to her by survivorship; the money continued to belong to the mother, and on her death it became part of her estate.

Then as to the claim against the bank. The memorandum signed by Mrs. Kenny clearly stated that the object of making the change in the bank account was "so that she (the daughter) could draw it," and nothing more. The authority of the bank was limited to doing what this memorandum directed, and in so far as the bank or its officers or clerks went beyond what was directed they exceeded the authority given. The bank took upon itself too much when it altered the bank account as it did.

It is a question in my mind whether the daughter would have made any claim to the moneys if the words "joint account" had not been used in altering the account. The use of these words may well have suggested ownership by survivorship to the daughter or some person representing her.

The bank, too, had notice before any of the money was drawn out, that there was trouble contemplated over the ownership of it; but it disregarded the warning and allowed the money to be transferred into the name of the daughter, and a considerable portion of it to be afterwards drawn by her. I think, under the circumstances, the bank, as well as its co-defendant, is liable to the plaintiff for the amount of the deposit (less, however, the sums which Esther Dunkley has paid as the funeral expenses and doctors' bills of the deceased), with interest from the commencement of action. Defendants are restrained from dealing with these moneys otherwise than to pay them to plaintiff.

Judgment will go accordingly with costs.