

devisee to a conveyance or possession. But, as all devises, even general ones, of land, are deemed specific, even since the Wills Act, I think it must be taken that until the land vests in the devisee, the executors are trustees for him, even during the 3 year period, subject always to the rights of creditors, and of course to any charges existing under the will.

If so, the result is that, as regards both goods and lands, we are brought to the situation as between trustees and cestui que trust. The will gave the property to the executors in trust for the wife during widowhood, "so that she may receive the income, rents, and profits thereof," and in a subsequent clause, after the power to sell any part and invest the proceeds, the executors are directed to pay her "the rents and profits or other income from the estate every 6 months."

Now, under this devise she becomes the equitable tenant for life of the hotel. As such it would be competent for her to apply to the Court if the trustees refused to let her take possession, and, though she would not be as of right entitled to be placed in possession, yet the Court in the exercise of judicial discretion to be exercised under all the circumstances, might so direct on such terms, but it would only be till further order, and, under proper circumstances, she might be ordered to restore possession to the trustees. Here the trustees have themselves thought it wise to allow her to conduct the hotel. One of them still thinks so, and no reason has been shewn for change of opinion. She is the person most interested in the success of the hotel, and I think would, under the circumstances, be placed by the Court in possession. See *Re Wythes*, [1893] 2 Ch. 369, and *Re Bagot*, [1894] 1 Ch. 177. Being in possession, what is urged against her continuing there is the fact of outstanding debts, and that she has possession of the only remaining personalty. But, as I have said, the applicant assented to that, and there are other assets. Then there is the mortgage—but it is admitted that it is not in arrear, and she keeps up the interest upon it, which, as life tenant, is all she should bear. She says she has, besides, laid out some \$700 in improving the property. It is said that if the hotel were rented it would bring in \$1,000 per year, and this would lead to a good sale. But it is not suggested that she is not as good a tenant as a stranger. . . .