

the right to sell, and in that case the proceeds were to be held upon the same trusts, the income to be paid to the person who would have been the beneficiary had the sale not been carried out. Then followed clause 7: "And upon the further trust to convey assign and transfer to the issue of the said Frances A. Harrison who may be living 20 years after her death all lands moneys assets and securities which may represent the said trust estate or fund at that time." By clause 8 it was provided that if there should be a failure of any beneficiary aforesaid at any time the land or its proceeds should be held in trust for the settlor.

Frances A. Harrison died on the 12th February, 1899, leaving her surviving one child only, Francis A. Harrison, and he had been permitted to occupy the land and receive the income of the trust for the period of 20 years, which had now expired. He had one son, the infant Francis Bruce Harrison, on whose behalf it was contended that he was entitled to share equally with his father under clause 7.

The learned Judge came to the conclusion that the argument for the infant could not be resisted—the intention of the settlor was clear. There was no inconsistency in the use of the word "beneficiary" in clause 8. The property is to go to "the issue of the said Frances A. Harrison who may be living."

"Issue" has the normal *prima facie* meaning of descendants of all generations: *In re Burnham*, [1918] 2 Ch. 196; *Head v. Randall* (1843), 2 Y. & C. Ch. 231, 235; *Edyvean v. Archer*, [1903] A.C. 379.

The learned Judge could find no ground of distinction between a will and a settlement in this respect: *In re Warren's Trusts* (1884), 26 Ch.D. 208.

Order declaring accordingly; costs of all parties out of the fund.

MIDDLETON, J.

MAY 22ND, 1919.

#### RICHARDSON v. McCaffrey.

*Mortgage—Practice in Action to Enforce Mortgage—Judgment for Foreclosure—Subsequent Order Directing Sale instead of Foreclosure—Report of Referee—Incorrect Date—Time for Redemption and for Appeal—One Day Appointed, where Sale Ordered, for Original Defendants and Subsequent Incumbrancers to Redeem—Interest—Agreement to Increase Rate—Whether Difference Chargeable upon Land against Subsequent Incumbrancers—Consequences of Redemption or Failure to Redeem—Unnecessary to State in Report—Rules 482, 487, 489—Stay of Reference—Appeal from Order Refusing to Stay—Rules 2, 505 (3), 507 (6).*