

The trustees' answer to the motion was their inability to find purchasers for the property, but the evidence shewed little or no effort in this direction. They also contended that the applicant was the only legatee pressing for her share. They admitted its officers had acted as directors of the George J. Foy Company, Limited, but claimed that this was done with the consent of the beneficiaries. They denied absolutely that the \$2,380 which they received from the Foy Company, Limited, for their services belonged to the estate, or was even to be taken into consideration as forming part of the estate, and they claimed the right to withhold the estate from the beneficiaries until they could administer the same.

The learned Judge held that as it appeared that other beneficiaries interested in the estate were not in accord with the applicant in making the application, and the estate was being managed with business capacity in good faith and no benefit could at present accrue to the applicant by making the order asked, dismissed the application with costs, holding that it was not obligatory on him under Rule 612 to make an order for the administration of the estate. The motion was argued on November 2, 1917. Judgment was reserved until the 23rd day of February, 1918. In the meantime the applicant's husband, with the approval of the other beneficiaries and to the knowledge of the learned Judge, had sold the Front Street property for \$47,000 cash, which sale the trustees had carried out and had received the money before the learned Judge gave his decision.

If this case is good law, the testator's direction in the will directing the trustees to hand over her property to her on her attaining 30 years of age, is to be disregarded and not given effect to, and the trustees can go on collecting the rents and interest on mortgages of the estate and charge the beneficiaries with commissions for their care and management of an estate which the beneficiaries could manage for themselves, it would seem that the retention of the estate was a breach of trust by the trustees.

If this is good law, Rules 608 to 614, dealing with the right to administration of estate, might well be abrogated. We could