

The wording of the clause relating to the daughters' right of occupation shews that the testatrix discriminated in the language chosen. Her daughters are to be entitled to use the property as a home "during widowhood." The fact that John T. Ryan, if there were issue of his marriage, would not have the right to bring his children to the "home" also weighs against his contention.

Any right conferred upon John T. Ryan by clause 3 of the will came to an end on his marriage.

Clause 5 only gives this property to Alfonso F. Smith on the death of John T. Ryan. This cannot be read as conferring upon him any right upon his marriage.

The provision as to marriage in clause 3 is an interlineation, and possibly the testator would have inserted the words "or marriage" in this clause, had attention been called to the matter. I cannot insert them now as a matter of construction. Subject to the right of Alfonso and his mother (his aunt being dead) to occupy the residence under the provisions of clause 3, upon the marriage of John T. Ryan the beneficial estate in the residence during the remaining years of his life passes as part of the residuary estate to the two daughters, the son, and grandson, under clause 14; the representatives of the dead daughter taking her share. So long as the grandson and his mother live and have the right to occupy the residence (under clause 3), this will be of no real value, but, if they predecease John T. Ryan, then, so long as John T. Ryan may survive, he and their representatives and the representatives of the deceased daughter will take as tenants in common (per stirpes).

It was argued that the right of possession given by clause 3 was in effect a life estate in the surviving daughter and her son, but I think the fact that the will makes John T. Ryan the life tenant of the equitable estate (subject to the termination of his estate on marriage) shews that what was given the others is a mere license to occupy.

If there is residuary estate not distributed, the costs may be paid out of it; if not, no costs.