

support it. It was agreed that a judgment might go declaring this void and directing that the fund be restored to the original trust.

Gertrude died in 1918, unmarried, and left her estate to her half-brother Arthur, subject to some pecuniary legacies.

The earlier settlement on Gertrude was a fraud upon the power. It was an attempt to divert \$13,000 from the fund to the second marriage settlement, and to the extent of \$13,000 it must be declared void, and the \$13,000, so far as it can be identified, restored to the original trust.

The learned Judge considered that he had power to separate the \$13,000 from the balance of the \$22,000, and that there was a valid intention to settle the \$9,000 on Gertrude.

The second settlement on Gertrude was not open to attack.

There was no such acquiescence on the part of the plaintiff as to preclude her attack. The delay had been great, and would prevent any personal remedy; but, as the fund was still in existence and could be followed, there was no reason why it should not be declared still subject to the original trust.

The Limitations Act afforded the trustees ample protection.

There should be a judgment declaring that the appointment of \$13,000, portion of the \$22,000, in favour of Gertrude, was void, and that this \$13,000 was still subject to the trusts of the original settlement.

And, on Cuthbert's admission, it should be declared that the release and appointment and the settlement of \$27,000 on him were void, and this fund was also still subject to the deed of 1864.

The \$9,000 and the \$18,000 appointed to Gertrude were well appointed, and under her will her half-brother became absolutely entitled, subject to the father's life-estate.

A claim made against the defendant Charles V. M. Temple as executor of his wife was dismissed.

The question of the necessity of appointing new trustees and for an account might be discussed before issuing judgment.

Costs of all parties (those of the trustees as between solicitor and client) should be paid out of the \$13,000.

There was no moral turpitude on the part of the defendant Charles or his daughter Gertrude.