

KELLY, J.

JUNE 26TH, 1914.

RE BRADING.

Executors—Application for Advice and Direction of Court as to Disposal of Assets—Sale or Retention of Shares—Matter in Discretion of Executors—Refusal of Court to Entertain Application.

Application, upon an originating notice, by one of the executors of William Thomas Brading, deceased, for an order determining questions arising in the administration of the estate.

W. Greene, for the applicant.

W. C. McCarthy, for the widow of the testator.

A. C. T. Lewis, for the Official Guardian.

KELLY, J.:—What is sought on this application is an order declaring whether the executors should sell or abstain from selling certain shares of stock forming part of the testator's estate; and, in the event of the Court directing a sale, a further direction is asked as to what amount of the income to be derived from the proceeds of such sale should be paid to Marguerite Mitchell (the testator's widow), to whom the income of the estate is given for the purposes specified in the will.

The applicant has evidently misconceived the position and duties of the executors in a matter such as this. During the argument I pointed out that the Court was being asked to determine something which is altogether within the scope of the executors' duties. Executors are required to use their own good judgment and exercise with due care their own discretion, within the terms and directions of the will, in determining whether they should or should not make sale of the assets at a particular time or for a stated price. The responsibility is theirs, not the Court's.

The application is one that should not be made, and I cannot entertain it.