

devise here was intended to and was sufficient to pass the legal estate in lot 7 held by the testatrix.

That conclusion being reached, the further question arose, is the devise good to pass to the devisee not only the legal estate of the testatrix but the beneficial interest in the mortgage-moneys?

Prima facie a devise of land is a devise of such estate or interest therein as the testator has. Here the testatrix was in possession, the land was specifically devised, and no other construction would give effect to the terms of the devise. The devise was therefore sufficient to pass and did pass such interest as the testatrix had in the lands, which was not that of an owner in fee, but was that of a mortgagee: *Re Carter, Dodds v. Pearson*, [1900] 1 Ch. 801.

Order declaring accordingly. Costs of all parties out of the estate.

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FERGUSON, J.A.

JUNE 22ND, 1917.

RE WINBERG AND KETTLE.

*Vendor and Purchaser—Agreement for Sale of Land—Objections to Title—Mortgage—Notice of Sale under Power—Misdescription of Land in Notice—Registration of Notice—Registry Act, R.S.O. 1914 ch. 124, sec. 75—Provision in Mortgage Relieving Purchaser from Inquiry as to Sufficiency of Notice—Foreclosure Proceedings—Parties—Husband of Mortgagee.*

Motion by Winberg, the vendor, under the Vendors and Purchasers Act, for an order declaring that the objection of Kettle, the purchaser, to the vendor's title, upon a contract for sale of land, had been satisfactorily answered.

The motion was heard in the Weekly Court at Toronto.

A. Cohen, for the vendor.

J. Singer, for the purchaser.

FERGUSON, J.A., in a written judgment, said that the first objection was as to the sufficiency of a notice of sale, registered on the 19th October, 1904, it being contended that the mortgaged premises were inaccurately or improperly described. The description in the mortgage was, "*lot No. 6 of lot No. 8 on the south side of Queen street in section 'C' of the Military Reserve in . . . Toronto as laid down on a plan of building lots on said lot No. 8 registered and numbered 165.*" In the notice of sale, the words and figure "*lot No. 6 of*" were omitted. The mort-