

come coming to the hands of the present executors until the trust estate should be paid the moneys found due by the Dominion Trust Company on capital account; (3) that the order varied the report on grounds not taken by the liquidator in the notice of appeal or raised by him on the argument, and violated established equitable rules governing the administration of estates and of equitable set-off and the accounting of defaulting executors; (4) that no commission or costs should be allowed the liquidator or the Dominion Trust Company until full payment had been made to the estate of all moneys found in their hands; and (5) that the Dominion Trust Company should be in no better or different position regarding accountability to the trust estate by reason of their being a corporation, and no individual executor would, on being discharged from his office, be given a charge on income until he had paid over all capital in his hands.

The cross-appeal of the liquidator was on the following grounds: (1) that no set-off should have been allowed of the moneys held by the Dominion Trust Company as trustees for Helen Beck and Doris Beck, as against the amounts advanced by the Dominion Trust Company as executors of the will of Geoffrey Strange Beck to Helen and Doris on account of income, for the reason that no set-off in law could arise, because the trusts and the parties to the trusts were different, the debts were not mutual debts, and did not arise in the same right; (2) that the application of the moneys received by the executors on account of income to the payment of taxes and the annuity to Mrs. Beck should not have been disturbed, and the executors should not have been directed to pay these sums out of capital.

The appeal and cross-appeal were heard by FALCONBRIDGE, C.J.K.B., RIDDELL, LATCHFORD, and KELLY, JJ.

H. T. Beck, for the appellants in the main appeal and for Helen Beck.

E. C. Cattanach, for the Official Guardian, representing Doris Beck, an infant.

N. W. Rowell, K.C., and D. B. Sinclair, for the liquidator, respondent.

RIDDELL, J., delivering the judgment of the Court, after stating the facts, said that, whatever the hand which paid the money of the two daughters, it was paid for the two executors and trustees, the Dominion Trust Company and Mr. Dennistoun,