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21/11/11 65

In Chancery.

Matthews

MORLEY

vs.

MATTHEWS.

DECREE.

PATERSON, HARRISON & HODGINS,
Plaintiff's Solicitors,
Toronto.

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In Chancery :

TUESDAY, the Twenty-fifth day of June, in the twenty-fifth year of the Reign of Her Majesty Queen VICTORIA, and in the year of our Lord 1861.

BETWEEN ANNIE CATHERINE MORLEY, a married Woman,
by SAMUEL MORLEY the Elder, her next friend,
Plaintiff;

AND

CATHERINE MATTHEWS, SAMUEL SEXTON POMROY, THOMAS SCATCHERD, EDWARD ADAMS, and JOHN BIRRELL, JANE POMROY, SAMUEL MORLEY, the Younger, JOHN M. MCKINNON, SOPHIA WILLIAMS MCKINNON, and MARION MABEL MATTHEWS, an infant under the age of twenty-one years,

Defendants.

This cause coming on this day to be heard *pro confesso* against the defendants Samuel Sexton Pomroy and Samuel Morley the younger, and by way of motion for a decree as against the other defendants, in the presence of Counsel for the said plaintiff and the said defendants, other than the said Samuel Sexton Pomroy and Samuel Morley the younger; upon opening of the matter and upon hearing read the plaintiff's bill, the answers of the said last mentioned defendants, and the affidavits and papers filed, and upon hearing what was alleged by Counsel as aforesaid; this Court doth declare that the will of the testator, Edward Matthews, in the pleadings named, ought to be established and the trusts thereof performed and carried into execution, and doth order and decree the same accordingly.

And it is ordered that the injunction already awarded in this cause against the defendant Catherine Matthews, restraining her from further collecting or receiving the rents, issues, and profits of the said testator's real and personal estate, be continued.

And it is ordered that the Receiver appointed in this cause pursuant to the order herein, dated the twenty-sixth day of June last, be continued with the powers and subject to the liabilities ordered and provided for in said order, and the said Receiver is to pass his accounts and pay his balances as thereby directed.

And it is ordered that it be referred to the Master of this Court at London, to take the following accounts and to make the following inquiries:

1. An account of the personal estate not specifically bequeathed by the said Edward Matthews, the testator, in the said pleadings mentioned, come to the hands of the said defendant Catherine Matthews, as executrix of said will, or which but for her wilful default might have been received by her.

2. An account of the testator's debts.

3. An account of the testator's funeral expenses.

4. An account of the testator's legacies.

5. An inquiry what parts, if any, of the said testator's personal estate are outstanding or undisposed of.

And it is ordered that the said testator's personal estate not specifically bequeathed, be applied in payment of his debts and funeral expenses, in a due course of administration, and then in payment of his legacies.

And it is ordered that the following accounts and inquiries be taken and made, that is to say,—

6. An inquiry what real estate the said testator was seized of, or entitled to, at the time of his death.

7. An enquiry what encumbrances affect the said testator's real estate, and when and by whom made.

8. An account of the rents and profits and proceeds of sales of said testator's real estate, received by the said defendant, Catherine Matthews, or which, but for her wilful default or neglect, might have been received by her. And in taking such accounts against the said defendant, Catherine Matthews, the said master is, as to the said personal estate, and rents and profits and proceeds of sale of said real estate, to take the same with annual rests.

9. An account of the dealings of the said defendant, or any of them, with the said testator's real or personal estate; and an inquiry into the circumstances of any conversion that has been made of any part of said estate by any of the parties to this suit.

10. An account of any personal or real estate, or moneys or securities for money, to

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Counsel to be
Mr. Elliot & R.A.H.

See as to
Powers etc

which the said testator's estate was entitled, which were in the hands or standing in the name of the said defendant, Samuel Sexton Pomroy, at the date of his assignment to the defendants, Thomas Scatcherd, Edward Adams, and John Birrell, and which came into their hands, or any of them, or into the hands of any other party, and the value of the same. And it is ordered, that an injunction do issue against the said defendants, Thomas Scatcherd, Edward Adams, and John Birrell, restraining them, and each of them, their solicitors and attorneys and agents, for disposing of or further intermeddling with the same.

11. An account of what moneys or properties have been received by the parties to this suit, or any of them, other than the said defendants, Scatcherd, Adams and Birrell, and by other legatees under testator's will.

12. An account of the annual income or proceeds of said estate, and the proper share or proportion to which the legatees under said testator's will, parties to this suit, and others, are and have been entitled in each year.

13. An enquiry as to what parts of the said testator's real estates devised by his said will to be sold have been sold or contracted to be sold, and for what sums, and how the moneys arising therefrom have been applied.

14. An enquiry whether any property belonging to said testator has been disposed of, or contracted to be disposed of, contrary to the terms of the will of the said testator, and by whom and in what manner the same has been disposed of.

And it is ordered, that the said Master do also take an account of what sum per annum should be allowed to the infant defendant, Marion Mabel Matthews, out of the annuity of five hundred pounds per annum allowed by the will of said testator to the defendant, Catherine Matthews, for the proper maintenance of the testator's unmarried children. And it is ordered that the sum so allowed by the said Master be paid to the said defendant, Catherine Matthews, for the sufficient and proper maintenance of the said infant defendant so long as she shall remain unmarried.

And the Court doth declare, that so much of the said annuity of five hundred pounds as is not so required for the sufficient and proper maintenance of the said infant defendant is applicable and liable to any deficiency or loss caused to the estate of the said testator by the wrong or wilful default or neglect of the said defendant, Catherine Matthews, and doth order and decree the same accordingly.

And the said Master is also to enquire whether the said defendant, Jane Pomroy, has parted with the interest and estate, to which she is entitled under the said testator's will.

And it is ordered, that the said Master do report severally, and at such times as he reasonably can, upon the several matters referred to him. And this Court doth reserve the consideration of further directions and of costs; and any of the parties hereto are to have liberty to apply as they may be advised.

(Signed)

A. GRANT,
Registrar.

End.

A. G.