

**SUPREME COURT OF TENNESSEE**

**Rutherford County v. Wilson**

121 S.W.3d 591 (Tenn. 2003) · Decided October 30, 2003

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**OPINION**

PER CURIAM.

121 S.W.3d 591 (2003) RUTHERFORD COUNTY v. Martha Jordan WILSON, et al. Supreme Court of Tennessee, at Nashville. February 4, 2003 Session. May 6, 2003. Opinion on Petition to Rehear October 30, 2003. \*594 Andrée Sophia Blumstein and William L. Harbison, Nashville, Tennessee, for the defendant-appellant, Cathey Baskin. Larry K. Tolbert and Aaron S. Guin, Murfreesboro, Tennessee, for the defendants-appellees, Diane Wilson McCord, Jane Maurice Wilson, and Martha Jordan Wilson. \*592 \*593 OPINION JANICE M. HOLDER, J., delivered the opinion of the court, in which FRANK F. DROWOTA, III, C.J., and E. RILEY ANDERSON, ADOLPHO A. BIRCH, JR., and WILLIAM M. BARKER, JJ., joined.

This appeal arises out of a condemnation proceeding brought by Rutherford County against the appellees. The appellant, claiming an interest through her deceased husband in the property to be condemned, filed a motion to intervene in the proceeding.

The trial court denied the appellant's motion to intervene and dismissed her cross-claim for declaratory judgment, finding that she held no interest in the property under the provisions of the granting instrument. The Court of Appeals affirmed the judgment of the trial court, holding that the granting instrument conveyed a contingent remainder to each member of the class.

As such, the conveyance to the appellant's husband lapsed when he predeceased the life tenant, leaving appellant without an interest in the property. We granted review, and we now hold that each class member held a vested, transmissible interest in the property prior to the death of the life tenant and that the appellant holds no interest in the property.

We remand this cause to the trial court for proceedings consistent with this opinion. Factual Background In 1942, Will Jordan ("Jordan") conveyed real property ("the property") to his daughter, Martha Jordan Wilson ("Wilson").

The deed executed by Jordan granted Wilson a life estate in the property with the remainder interest to go to "the heirs of her body on her death, in accordance with the laws of descent and distribution; and should the said Martha Jordan Wilson have no children or representatives of children at her death, then the remainder interest shall go to my next of kin as provided by law."

It is the construction of this language that is the subject of the appeal in this case. Before her death in 2001, Wilson had three children: Jane Maurice Wilson ("Jane"), William James Wilson ("William"), and Kenneth Dwayne Wilson ("Kenneth"). Jane, who is still living, is not married and has no children. William and Kenneth both predeceased Wilson. William died intestate with no wife or children.

Kenneth also died intestate but was survived by a wife, Cathey Baskin ("Baskin"), and a daughter, Diane Wilson McCord ("McCord"). In 1999, Rutherford County, the county in which the property is located, sought to condemn a portion of the property.

In its Petition for Condemnation, Rutherford County named Wilson, Jane, and McCord \*595 as defendants. In anticipation of the condemnation, Wilson, Jane, and McCord executed a series of quitclaim deeds. Through these deeds, Wilson and McCord purported to convey their interests in the portion of the property subject to condemnation to Jane in exchange for Jane's interest in other portions of the property.

In their answers to Rutherford County's petition, Wilson and McCord disclaimed any legal interest in the amount to be tendered by the county and averred that Jane was its exclusive owner. Baskin, who was not named as a defendant in the condemnation proceeding, filed a motion to intervene in the proceeding to assert her interest in the property.

The trial court ultimately denied Baskin's motion to intervene and dismissed her cross-claim for declaratory judgment, finding that she held no interest in the property. The Court of Appeals affirmed the judgment of the trial court.

The intermediate court, however, held that each member of the class possessed a contingent remainder prior to Wilson's death and that Kenneth's interest in the property therefore lapsed when he predeceased Wilson. We granted review to determine whether the class members possessed vested or contingent remainders prior to Wilson's death and whether Baskin holds an interest in the property.

**Standard of Review** The facts of this case are undisputed. Therefore, this appeal involves only questions of law. See *Union Carbide Corp. v. Huddleston*, 854 S.W.2d 87, 91 (Tenn.1993). The standard of review for questions of law is de novo upon the record with no presumption of correctness. *Id.* **Analysis I. Class Members' Remainder Interests** In construing deeds, courts are primarily concerned with ascertaining the intention of the grantor.

See *Hall v. Hall*, 604 S.W.2d 851, 853 (Tenn.1980); *Collins v. Smithson*, 585 S.W.2d 598, 603 (Tenn.1979). Because the law favors the vesting of estates at the earliest practical moment, any doubt regarding the grantor's intent should be resolved in favor of an intention to create a vested remainder rather than a contingent remainder. See *Williams v. McFarland*, 162 Tenn. 468, 37 S.W.2d 116, 119 (1931).

This preference for vested remainders is so strong that "no remainder will be construed as contingent which may, consistently with the [grantor's] intention, be deemed vested." *Albright v. Albright*, 192 Tenn. 326, 241 S.W.2d 415, 417 (1951).

The preference for early vesting applies with equal force to class gifts. See *Nicholson v. Nicholson*, 496 S.W.2d 477, 479 (Tenn.1973); *Walker v. Applebury*, 218 Tenn. 91, 400 S.W.2d 865, 868-69 (1965); *Karsch v. Atkins*, 203 Tenn. 350, 313 S.W.2d 253, 255 (1958). A class gift is a gift to a group of persons who are not named, who have one or more characteristics in common, and whose number may vary.

See *Jennings v. Jennings*, 165 Tenn. 295, 54 S.W.2d 961, 963 (1932); see also *Williams*, 37 S.W.2d at 118. In 1927, the Tennessee General Assembly enacted the Tennessee Class Gift Statute, which provides: Where a... conveyance, transfer or gift is made to a class of persons subject to fluctuation by increase or diminution of its number in consequence of future births or deaths, and the time of payment, distribution, vestiture or enjoyment is fixed at a subsequent period or on the happening of a future event, and any member of such class shall die before the arrival of such period or the happening of such event, and shall have issue surviving when such period arrives or such event happens, such issue shall \*596 take the share of the property which the member so dying would take if living, unless a clear intention to the contrary is manifested by the... deed or other instrument.

Tenn.Code Ann. § 32-3-104 (1984). Prior to the enactment of this statute, Tennessee courts supported a rule of construction that was known as the "Tennessee Class Doctrine." See *Satterfield v. Mayes*, 30 Tenn. 58, 59 (1850); see also *Nicholson*, 496 S.W.2d at 479. This doctrine held that remainders to a fluctuating class of persons remained contingent until the time set in the instrument for distribution or payment.

See *Satterfield*, 30 Tenn. at 59; see also *Nicholson*, 496 S.W.2d at 479. This Court has concluded that the enactment of the Tennessee Class Gift Statute abolished the Tennessee Class Doctrine. See *Walker*, 400 S.W.2d at 867.

Therefore, the rule now is that even if the time of distribution or payment is set at a subsequent period or upon the happening of a future event, "the individual members of the class will take vested transmissible interest unless the [instrument], considered as a whole in the light of all the circumstances, manifests a clear intention to the contrary." *Karsch*, 313 S.W.2d at 255.

For the Tennessee Class Gift Statute to apply to a conveyance, the granting instrument must: 1) convey the property to a class; 2) set the time for distribution "at a subsequent period or on the happening of a future event"; and 3) not show a clear intention to preclude the issue of a deceased class member from taking the share of property that the deceased class member would have taken if living at the time for distribution.

See Tenn.Code Ann. § 32-3-104 (1984). Fourth and finally, a member of the class must die before the time for distribution and must have issue living at the time for distribution. As to the first requirement, the deed refers to two groups of people as potential remaindermen.

The first clause of the deed conveys the remainder to the "heirs of [Wilson's] body." The deed's second clause defines the remaindermen as "[Wilson's] children or the representatives of [her] children." Both clauses identify a group of people who are not named, who have one or more characteristics in common, and whose number may vary. See Jennings, 54 S.W.2d at 963; see also Williams, 37 S.W.2d at 118.

Both groups may also fluctuate in number due to future births and deaths. Regardless of the group to which the grantor intended to convey the remainder, the granting instrument conveys the property to a class. The deed also satisfies the second requirement of the Tennessee Class Gift Statute.

The instrument states that the remainder interest is to go to "the heirs of [Wilson's] body on her death." It is undisputed that this language sets the time for distribution as the time of Wilson's death, which is the happening of a future event.

The statute's third requirement is that the deed not manifest a clear intention to preclude a deceased class member's issue from taking the share of property that the deceased class member would have taken if living at the time for distribution.

To make this determination, we are required to identify the class to which the conveyance was made as well as the type of remainder the grantor intended to convey to the class. The deed reads, The interest herein conveyed to the said Martha Jordan Wilson is a life estate, in and to the foregoing described property, with the right to take immediate possession thereof, the remainder interest to go to the heirs of her body on her death, in accordance with the laws of descent and distribution; and should the said Martha Jordan Wilson have no children \*597 or representatives of children at her death, then the remainder interest shall go to my next of kin as provided by law.

(Emphasis added). The granting language in the present case does not provide a clear definition of the class. On one hand, the deed indicates that the class is composed of "the heirs of [Wilson's] body." Case law defines the term "heirs of the body" as the lineal descendants of a designated person who would succeed to the property of the designated person if that person died intestate owning the property.

See Fehringer v. Fehringer, 222 Tenn. 585, 439 S.W.2d 258, 261 (1969). As such, the legal definition of this term requires that the heirs of a designated person's body survive that person. See id. Therefore, if the class is defined as "the heirs of [Wilson's] body," the individual members of the class cannot be determined until the time of Wilson's death, and the interest of any class member who predeceases Wilson would lapse.

See *id.* at 261-62. Thus, the remainder would be contingent. The third requirement will not be met if Jordan intended to convey a contingent remainder. An intent to convey a contingent remainder would manifest a clear intention to preclude a deceased class member's issue from taking the share of the property that the deceased class member would have taken.

The deed, however, must be considered as a whole in light of all the circumstances. See Karsch, 313 S.W.2d at 255. The deed's second clause refers to the class as Wilson's "children or representatives of [her] children." This definition is broader than the legal definition of the term, and it does not require members of the class to survive the life tenant as the legal definition does.

The share of the property of a child who predeceases Wilson would pass to that child's representatives. This result is contrary to an intent to convey a contingent remainder. As such, the deed's second clause would satisfy the third requirement of the statute. Since our primary purpose in construing a deed is to ascertain the intention of the grantor, we shall look to the language and structure of the deed to determine to which class of people Jordan intended to convey the remainder.

The language and structure of the deed show that Jordan intended the second clause to define the first clause. The granting language initially conveys the remainder to the "heirs of [Wilson's] body." However, in explaining what will happen to the remainder in the event that the conveyance to the class should fail, Jordan uses broader language to identify the class.

Jordan's decision to add a new, broader phrase instead of merely reiterating "heirs of the body," or a synonymous term, evidences an intent to redefine the term. We conclude that Jordan did not intend to use the legal definition of the term "heirs of the body." Instead, he intended to convey the remainder interest to Wilson's children and to those who would take by representation in the event that any of Wilson's children should die.

Accordingly, the deed does not show a clear intention to preclude the deceased class member's issue from taking the share of the property that the deceased class member would have taken if living because the deed does not clearly convey a contingent remainder to the class.

The third requirement, therefore, is satisfied. Finally, for the Tennessee Class Gift Statute to apply, a class member must die before the time for distribution and must have issue living at the time for distribution.

We have concluded that Wilson's children and the representatives of her children are members of the class of remaindermen. Two of Wilson's children, William and Kenneth, predeceased her. Since the deed sets the time for distribution \*598 as the time of Wilson's death, William and Kenneth both died before the time for distribution. Furthermore, Kenneth was survived by his daughter, McCord, who is still living.

Therefore, Kenneth had issue living at the time for distribution. Accordingly, all four of the requirements are satisfied, and the Tennessee Class Gift Statute applies to the conveyance. We hold, therefore, that each class member held a vested, transmissible interest in the property prior to Wilson's death. See Nicholson, 496 S.W.2d at 479; Walker, 400 S.W.2d at 869; Karsch, 313 S.W.2d at 255.

II. Baskin's Interest Having determined that the members of the class would take vested, transmissible remainders prior to Wilson's death, we must now determine the interest that Baskin holds. First of all, Baskin is not one of Wilson's children or a representative of one of Wilson's children.

Thus, she is not a member of the class, and she would not take an interest under the language of the deed. In addition, we have concluded that the Tennessee Class Gift Statute applies to the conveyance at issue. Under that statute, if class members die before the time for distribution, their issue who are living at the time for distribution take the share that the deceased class members would have taken if they had been living.

See Tenn.Code Ann. § 32-3-104 (1984). Since Kenneth predeceased Wilson, his share would pass to his issue. Baskin is not Kenneth's issue. Therefore, she does not take an interest under the Tennessee Class Gift Statute.

Finally, a basic rule of statutory construction provides that a general statute concerning a subject must defer to a more specific statute concerning the same subject. See Five Star Exp., Inc. v. Davis, 866 S.W.2d 944, 946 (Tenn.1993).

The laws of descent and distribution, therefore, are superseded by the Tennessee Class Gift Statute because it is a more specific statute concerning the distribution of a deceased class member's interest in the property.

As such, the laws of descent and distribution do not apply and do not confer an interest in the property to Baskin. Accordingly, Baskin holds no interest in the property. Conclusion Because the deed in question does not manifest a clear intention to convey a contingent remainder to the class, we hold that each of the members of the class takes a vested, transmissible remainder in the property prior to the death of Wilson.

In addition, we hold that Baskin does not hold an interest in the property. Therefore, the Court of Appeals is reversed in part and affirmed in part, and the case is remanded to the trial court for proceedings consistent with this opinion. Costs of this appeal are taxed to the appellant, Cathey Baskin, and her surety, for which execution may issue if necessary.

OPINION ON PETITION TO REHEAR On May 16, 2003, the appellant, Cathey Baskin, filed a petition to rehear the opinion this Court issued on May 6, 2003. We granted the appellant's petition

to consider her assertion that our opinion is in conflict with *Walker v. Applebury*, 218 Tenn. 91, 400 S.W.2d 865 (Tenn.1965). Baskin asserts that Walker holds that a deceased class member's surviving spouse is entitled to an interest in the subject property under the laws of intestate succession.

This proposition was not central to the holding of Walker but is an interpretation that can be gleaned by a careful reading of the opinion. Assuming that the appellant's interpretation of Walker is correct, however, we hold that this interpretation is inconsistent with the plain \*599 language of the Tennessee Class Gift Statute.

We therefore overrule Walker to the extent it holds that a deceased class member's surviving spouse is entitled to an interest in the subject property under the laws of intestate succession. In this case, we held that the Class Gift Statute applied to the conveyance at issue and that each of the class members held a vested, transmissible interest in the subject property prior to the life tenant's death.

The Class Gift Statute provides that a deceased class member's surviving issue shall take the share of property that the class member would have taken if living at the time for distribution. See Tenn.Code Ann. § 32-3-104 (1984).

Therefore, under this statute, only Kenneth Wilson's daughter would be entitled to take his share of the property on the date of distribution. If the laws of intestate succession were applied, however, both Kenneth Wilson's wife and daughter would share his vested interest in the property.

Under the laws of intestate succession, a vested, transmissible interest in property is transmitted to an intestate's heirs. See *Blackburn v. Blackburn*, 109 Tenn. 674, 73 S.W. 109, 111 (Tenn.1903); *Harris v. France*, 33 Tenn.App. 333, 232 S.W.2d 64, 73 (Tenn.Ct.App.1950); see also Tenn.Code Ann. § 31-1-101(9) (1984) (defining "property" under the laws of descent and distribution as "anything that may be the subject of ownership" including "real and personal property or any interest therein").

Accordingly, under the laws of intestate succession, when Kenneth Wilson predeceased his mother, his future interest in the property would pass to his heirs, which would include his surviving spouse. Under these circumstances, the laws of intestacy are in conflict with the Class Gift Statute. A basic rule of statutory construction provides that "a general statute concerning a subject must defer to a more specific statute concerning the same subject."

*Five Star Exp., Inc. v. Davis*, 866 S.W.2d 944, 946 (Tenn.1993). This Court stated the basis for this rule in *Koella v. State ex rel. Moffett*: Where there is a general provision applicable to a multitude of subjects, and also a provision which is particular and applicable to one of these subjects, and inconsistent with the general provision, it does not necessarily follow that they are so inconsistent that they both cannot stand.

The special provision will be deemed an exception, and the general provision will be construed to operate on all the subjects introduced therein except the particular one which is the subject of the special provision. 218 Tenn. 629, 405 S.W.2d 184, 189 (Tenn.1966) (quoting *State v. Safley*, 172 Tenn. 385, 112 S.W.2d 831 (Tenn.1938)).

In our original opinion, we concluded that the more general laws of descent and distribution would defer to the more specific Class Gift Statute under the circumstances of this case. Both the laws of intestacy and the Class Gift Statute concern the distribution of a deceased person's interest in property. While the laws of intestate succession apply in any situation where a person dies intestate, the Class Gift Statute only applies when property is conveyed to a class and a member of the class dies before the time for distribution.

In such a situation, the plain language of the Class Gift Statute provides that the deceased class member's issue take his or her share of the property thereby establishing rights in such issue. Because the Class Gift Statute is inconsistent with the laws of descent and distribution under the circumstances of this case, the Class Gift Statute is deemed an exception to the application of those laws.

We have given thorough consideration to the petition to rehear, and we are of the \*600 opinion that our original opinion is satisfactory as clarified herein. Accordingly, the petition is without merit. The costs associated with this petition to rehear are waived.

HOLDER, J.

OPINION JANICE M. HOLDER, J., delivered the opinion of the court, in which FRANK F. DROWOTA, III, C.J., and E. RILEY ANDERSON, ADOLPHO A. BIRCH, JR., and WILLIAM M. BARKER, JJ., joined. This appeal arises out of a condemnation proceeding brought by Rutherford County against the appellees.

The appellant, claiming an interest through her deceased husband in the property to be condemned, filed a motion to intervene in the proceeding. The trial court denied the appellant's motion to intervene and dismissed her cross-claim for declaratory judgment, finding that she held no interest in the property under the provisions of the granting instrument.

The Court of Appeals affirmed the judgment of the trial court, holding that the granting instrument conveyed a contingent remainder to each member of the class. As such, the conveyance to the appellant's husband lapsed when he predeceased the life tenant, leaving appellant without an interest in the property.

We granted review, and we now hold that each class member held a vested, transmissible interest in the property prior to the death of the life tenant and that the appellant holds no interest in the property. We remand this cause to the trial court for proceedings consistent with this opinion.

Factual Background In 1942, Will Jordan (“Jordan”) conveyed real property (“the property”) to his daughter, Martha Jordan Wilson (“Wilson”).

The deed executed by Jordan granted Wilson a life estate in the property with the remainder interest to go to “the heirs of her body on her death, in accordance with the laws of descent and distribution; and should the said Martha Jordan Wilson have no children or representatives of children at her death, then the remainder interest shall go to my next of Mn as provided by law.” It is the construction of this language that is the subject of the appeal in this case.

Before her death in 2001, Wilson had three children: Jane Maurice Wilson (“Jane”), William James Wilson (William”), and Kenneth Dwayne Wilson (“Kenneth”). Jane, who is still living, is not married and has no children. William and Kenneth both predeceased Wilson. William died intestate with no wife or children. Kenneth also died intestate but was survived by a wife, Cathey Baskin (“Bas-kin”), and a daughter, Diane Wilson McCord (“McCord”).

In 1999, Rutherford County, the county in which the property is located, sought to condemn a portion of the property. In its Petition for Condemnation, Rutherford County named Wilson, Jane, and McCord \*595as defendants.

In anticipation of the condemnation, Wilson, Jane, and McCord executed a series of quitclaim deeds. Through these deeds, Wilson and McCord purported to convey their interests in the portion of the property subject to condemnation to Jane in exchange for Jane’s interest in other portions of the property.

In their answers to Rutherford County’s petition, Wilson and McCord disclaimed any legal interest in the amount to be tendered by the county and averred that Jane was its exclusive owner. Baskin, who was not named as a defendant in the condemnation proceeding, filed a motion to intervene in the proceeding to assert her interest in the property.

The trial court ultimately denied Bas-kin’s motion to intervene and dismissed her cross-claim for declaratory judgment, finding that she held no interest in the property. The Court of Appeals affirmed the judgment of the trial court.

The intermediate court, however, held that each member of the class possessed a contingent remainder prior to Wilson’s death and that Kenneth’s interest in the property therefore lapsed when he predeceased Wilson. We granted review to determine whether the class members possessed vested or contingent remainders prior to Wilson’s death and whether Baskin holds an interest in the property.

Standard of Review The facts of this case are undisputed. Therefore, this appeal involves only questions of law. See *Union Carbide Corp. v. Huddleston*, 854 S.W.2d 87, 91 (Tenn.1993). The standard of review for questions of law is de novo upon the record with no presumption of

correctness. *Id.* Analysis I. Class Members' Remainder Interests In construing deeds, courts are primarily concerned with ascertaining the intention of the grantor.

See *Hall v. Hall*, 604 S.W.2d 851, 853 (Tenn.1980); *Collins v. Smithson*, 585 S.W.2d 598, 603 (Tenn. 1979). Because the law favors the vesting of estates at the earliest practical moment, any doubt regarding the grantor's intent should be resolved in favor of an intention to create a vested remainder rather than a contingent remainder. See *Williams v. McFarland*, 162 Tenn. 468, 37 S.W.2d 116, 119 (1931).

This preference for vested remainders is so strong that "no remainder will be construed as contingent which may, consistently with the [grantor's] intention, be deemed vested." *Albright v. Albright*, 192 Tenn. 326, 241 S.W.2d 415, 417 (1951).

The preference for early vesting applies with equal force to class gifts. See *Nicholson v. Nicholson*, 496 S.W.2d 477, 479 (Tenn.1973); *Walker v. Applebury*, 218 Tenn. 91, 400 S.W.2d 865, 868-69 (1965); *Karsch v. Atkins*, 203 Tenn. 350, 313 S.W.2d 253, 255 (1958). A class gift is a gift to a group of persons who are not named, who have one or more characteristics in common, and whose number may vary.

See *Jennings v. Jennings*, 165 Tenn. 295, 54 S.W.2d 961, 963 (1932); see also *Williams*, 37 S.W.2d at 118. In 1927, the Tennessee General Assembly enacted the Tennessee Class Gift Statute, which provides: Where a... conveyance, transfer or gift is made to a class of persons subject to fluctuation by increase or diminution of its number in consequence of future births or deaths, and the time of payment, distribution, vestiture or enjoyment is fixed at a subsequent period or on the happening of a future event, and any member of such class shall die before the arrival of such period or the happening of such event, and shall have issue surviving when such period arrives or such event happens, such issue shall \*596take the share of the property which the member so dying would take if living, unless a clear intention to the contrary is manifested by the... deed or other instrument.

TennCode Ann. § 32-3-104 (1984). Prior to the enactment of this statute, Tennessee courts supported a rule of construction that was known as the "Tennessee Class Doctrine." See *Satterfield v. Mayes*, 30 Tenn. 58, 59 (1850); see also *Nicholson*, 496 S.W.2d at 479. This doctrine held that remainders to a fluctuating class of persons remained contingent until the time set in the instrument for distribution or payment.

See *Satterfield*, 30 Tenn. at 59; see also *Nicholson*, 496 S.W.2d at 479. This Court has concluded that the enactment of the Tennessee Class Gift Statute abolished the Tennessee Class Doctrine. See *Walker*, 400 S.W.2d at 867.

Therefore, the rule now is that even if the time of distribution or payment is set at a subsequent period or upon the happening of a future event, "the individual members of the class will take

vested transmissible interest unless the [instrument], considered as a whole in the light of all the circumstances, manifests a clear intention to the contrary.” Karsch, 313 S.W.2d at 255.

For the Tennessee Class Gift Statute to apply to a conveyance, the granting instrument must: 1) convey the property to a class; 2) set the time for distribution “at a subsequent period or on the happening of a future event”; and 3) not show a clear intention to preclude the issue of a deceased class member from taking the share of property that the deceased class member would have taken if living at the time for distribution.

See TenmCode Ann. § 32-3-104 (1984). Fourth and finally, a member of the class must die before the time for distribution and must have issue living at the time for distribution. As to the first requirement, the deed refers to two groups of people as potential remaindermen.

The first clause of the deed conveys the remainder to the “heirs of [Wilson’s] body.” The deed’s second clause defines the remaindermen as “[Wilson’s] children or the representatives of [her] children.” Both clauses identify a group of people who are not named, who have one or more characteristics in common, and whose number may vary. See Jennings, 54 S.W.2d at 963; see also Williams, 37 S.W.2d at 118.

Both groups may also fluctuate in number due to future births and deaths. Regardless of the group to which the grantor intended to convey the remainder, the granting instrument conveys the property to a class. The deed also satisfies the second requirement of the Tennessee Class Gift Statute.

The instrument states that the remainder interest is to go to “the heirs of [Wilson’s] body on her death.” It is undisputed that this language sets the time for distribution as the time of Wilson’s death, which is the happening of a future event.

The statute’s third requirement is that the deed not manifest a clear intention to preclude a deceased class member’s issue from taking the share of property that the deceased class member would have taken if living at the time for distribution.

To make this determination, we are required to identify the class to which the conveyance was made as well as the type of remainder the grantor intended to convey to the class. The deed reads, The interest herein conveyed to the said Martha Jordan Wilson is a life estate, in and to the foregoing described property, with the right to take immediate possession thereof, the remainder interest to go to the heirs of her body on her death, in accordance with the laws of descent and distribution; and should the said Martha Jordan Wilson have no children \*597or representatives of children at her death, then the remainder interest shall go to my next of kin as provided by law.

(Emphasis added). The granting language in the present case does not provide a clear definition of the class. On one hand, the deed indicates that the class is composed of “the heirs of [Wilson’s]

body.” Case law defines the term “heirs of the body” as the lineal descendants of a designated person who would succeed to the property of the designated person if that person died intestate owning the property.

See *Fehringer v. Fehringer*, 222 Tenn. 585, 439 S.W.2d 258, 261 (1969). As such, the legal definition of this term requires that the heirs of a designated person’s body survive that person. See *id.* Therefore, if the class is defined as “the heirs of [Wilson’s] body,” the individual members of the class cannot be determined until the time of Wilson’s death, and the interest of any class member who predeceases Wilson would lapse.

See *id.* at 261-62. Thus, the remainder would be contingent. The third requirement will not be met if Jordan intended to convey a contingent remainder. An intent to convey a contingent remainder would manifest a clear intention to preclude a deceased class member’s issue from taking the share of the property that the deceased class member would have taken.

The deed, however, must be considered as a whole in light of all the circumstances. See *Karsch*, 313 S.W.2d at 255. The deed’s second clause refers to the class as Wilson’s “children or representatives of [her] children.” This definition is broader than the legal definition of the term, and it does not require members of the class to survive the life tenant as the legal definition does.

The share of the property of a child who predeceases Wilson would pass to that child’s representatives. This result is contrary to an intent to convey a contingent remainder. As such, the deed’s second clause would satisfy the third requirement of the statute. Since our primary purpose in construing a deed is to ascertain the intention of the grantor, we shall look to the language and structure of the deed to determine to which class of people Jordan intended to convey the remainder.

The language and structure of the deed show that Jordan intended the second clause to define the first clause. The granting language initially conveys the remainder to the “heirs of [Wilson’s] body.” However, in explaining what will happen to the remainder in the event that the conveyance to the class should fail, Jordan uses broader language to identify the class.

Jordan’s decision to add a new, broader phrase instead of merely reiterating “heirs of the body,” or a synonymous term, evidences an intent to redefine the term. We conclude that Jordan did not intend to use the legal definition of the term “heirs of the body.” Instead, he intended to convey the remainder interest to Wilson’s children and to those who would take by representation in the event that any of Wilson’s children should die.

Accordingly, the deed does not show a clear intention to preclude the deceased class member’s issue from taking the share of the property that the deceased class member would have taken if living because the deed does not clearly convey a contingent remainder to the class.

The third requirement, therefore, is satisfied. Finally, for the Tennessee Class Gift Statute to apply, a class member must die before the time for distribution and must have issue living at the time for distribution.

We have concluded that Wilson's children and the representatives of her children are members of the class of remaindermen. Two of Wilson's children, William and Kenneth, predeceased her. Since the deed sets the time for distribution as the time of Wilson's death, William and Kenneth both died before the time for distribution. Furthermore, Kenneth was survived by his daughter, McCord, who is still living.

Therefore, Kenneth had issue living at the time for distribution. Accordingly, all four of the requirements are satisfied, and the Tennessee Class Gift Statute applies to the conveyance. We hold, therefore, that each class member held a vested, transmissible interest in the property prior to Wilson's death. See Nicholson, 496 S.W.2d at 479; Walker, 400 S.W.2d at 869; Karsch, 313 S.W.2d at 255.

II. Baskin's Interest Having determined that the members of the class would take vested, transmissible remainders prior to Wilson's death, we must now determine the interest that Baskin holds. First of all, Baskin is not one of Wilson's children or a representative of one of Wilson's children.

Thus, she is not a member of the class, and she would not take an interest under the language of the deed. In addition, we have concluded that the Tennessee Class Gift Statute applies to the conveyance at issue. Under that statute, if class members die before the time for distribution, their issue who are living at the time for distribution take the share that the deceased class members would have taken if they had been living.

See Tenn.Code Ann. § 32-3-104 (1984). Since Kenneth predeceased Wilson, his share would pass to his issue. Baskin is not Kenneth's issue. Therefore, she does not take an interest under the Tennessee Class Gift Statute.

Finally, a basic rule of statutory construction provides that a general statute concerning a subject must defer to a more specific statute concerning the same subject. See *Five Star Exp., Inc. v. Davis*, 866 S.W.2d 944, 946 (Tenn.1993).

The laws of descent and distribution, therefore, are superseded by the Tennessee Class Gift Statute because it is a more specific statute concerning the distribution of a deceased class member's interest in the property.

As such, the laws of descent and distribution do not apply and do not confer an interest in the property to Baskin. Accordingly, Baskin holds no interest in the property. Conclusion Because the deed in question does not manifest a clear intention to convey a contingent remainder to the class,

we hold that each of the members of the class takes a vested, transmissible remainder in the property prior to the death of Wilson.

In addition, we hold that Baskin does not hold an interest in the property. Therefore, the Court of Appeals is reversed in part and affirmed in part, and the case is remanded to the trial court for proceedings consistent with this opinion. Costs of this appeal are taxed to the appellant, Cathey Baskin, and her surety, for which execution may issue if necessary.