

SUPREME COURT OF FLORIDA

Sorrells v. McNally

105 So. 106 (Fla. 1925) · Decided May 30, 1925

SUMMARY

The Florida Supreme Court construed John B. Flinn, Sr.'s will after his widow elected to take a statutory share and his son and grandson died before the widow. The court held that the grandson, Charles Otto Flinn, received a vested estate of inheritance in one-half of the residuary estate at the testator's death, notwithstanding the direction that the estate be turned over to him at age thirty. Because the will contained no alternate disposition upon the grandson's death, that interest descended to his mother under Florida's statute of descents, and the decree awarding the remainder to the widow was reversed.

CASE DETAILS

COURT	Supreme Court of Florida
WRITING FOR THE COURT	Terrell, J.; West, C.J.; Whitfield, J.; Browne, J.; Strum, J.; Ellis, J.
JURISDICTION	Florida
DECIDED	May 30, 1925
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The executor and trustee brought a suit in chancery to construe the decedent's will. The Chancellor held that the decedent's widow, Zeolide W. Flinn, was entitled to the entire estate. Ruth Iona Sorrells and her husband appealed.
STANDARD OF REVIEW	De novo construction of the will and determination of the legal effect of the devise and the statute of descents.
PRECEDENTIAL VALUE	Published Florida Supreme Court opinion; precedential
PARTIES	Ruth Iona Sorrells, Charles E. Sorrells v. Walter McNally, executor and trustee

TOPICS

- probate
- estate administration
- intestacy
- trusts
- statutory interpretation

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the will vested the residuary estate in Charles Otto Flinn at the testator's death or made his interest contingent on attaining age thirty.
2. Whether Charles Otto Flinn's death before attaining age thirty caused the devise to lapse or created a possibility of reverter or resulting trust in favor of the testator's heirs.
3. Whether the widow's election to take against the will altered the vesting of the grandson's remainder or entitled her to the entire residuary estate.
4. Whether the vested interest inherited by Charles Otto Flinn descended under Florida's statute of descents to his mother.

HOLDINGS

1. The residuary devise to Charles Otto Flinn vested at the testator's death; the direction that the estate be turned over to him when he reached thirty postponed enjoyment and possession rather than vesting.
2. Charles Otto Flinn's death before age thirty did not cause the vested devise to lapse, and no possibility of reverter or resulting trust arose in favor of the heirs of John B. Flinn, Sr.
3. The widow's election to take a child's share did not cause the grandson's vested remainder to accelerate to or become owned by the widow.
4. At his death, Charles Otto Flinn held an estate of inheritance in one-half of the residuary estate, and that interest passed as intestate property to his mother, Ruth Iona Sorrels, under Florida's statute of descents.

KEY QUOTATIONS

"To ascertain and give effect to the intent of the testator is the cardinal rule of testamentary construction." (462-463)

"The law favors the early vesting of estates, and in the absence of a clear manifestation of the intention of the testator to the contrary, estates are held to vest at the earliest possible date." (467)

"Holding that in either event Charles Otto Flinn was at the time of his death vested with an estate of inheritance in and to one-half the residuary estate of John B. Flinn, Sr., and there being no provision or direction in the will of the said J. B. Flinn, Sr., as to the disposition thereof in the event of the death of Charles Otto Flinn before attaining his thirtieth year, and no other impediment to or interruption of the statute of descents being made to appear, the conclusion is irresistible that the estate in question must be treated and disposed of as an intestate estate." (473)

FACTUAL BACKGROUND

John B. Flinn, Sr. died testate in 1919, leaving a widow, a son, and a grandson, Charles Otto Flinn. His will gave the residue to Walter McNally as executor and trustee, provided for the widow and son during their lives, and directed that the estate ultimately be turned over to the grandson when he reached thirty. The widow renounced the will and elected to take a child's share; thereafter the son and grandson died before the widow, and the

executor sought construction of the will. The grandson's mother, Ruth Iona Sorrells, claimed that the grandson had received a vested inheritance that descended to her.

PROCEDURAL HISTORY

John B. Flinn, Sr.'s executor and trustee sought construction of the will after the widow elected to take a child's share and the decedent's son and grandson died. The Chancellor awarded the entire estate to the widow. The Florida Supreme Court reversed and directed that the litigation costs be taxed against the appellants.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The decree awarding the remainder of the residuary estate to Zeolide W. Flinn was reversed, with directions to tax the costs of the litigation against the appellants.

CASES CITED

- Dean v. Crews, 77 Fla. 319, 81 So. 479
- Carney v. Kain, 40 W. Va. 758, 23 S.E. 650
- Blount v. Walker, 31 S.C. 13, 9 S.E. 804
- Kalbach v. Clark, 133 Iowa 215, 110 N.W. 599
- Cropley v. Cooper, 19 Wall. (U.S.) 167
- Atchison v. Francis, 182 Iowa 37, 165 N.W. 587
- Scofield v. Olcott, 120 Ill. 362, 11 N.E. 351
- Martin v. Cook, 129 Md. 195, 98 A. 489
- Vance's Estate, 141 Pa. St. 201, 21 A. 643
- Almy v. Jones, 17 R.I. 265, 21 A. 616