

ROYAL COURT  
(Probate Division)

5th February, 1996

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Before: The Bailiff, and Jurats  
Herbert and Potter.

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re the Estate of Sarah Green (née Morrison), deceased.

*ex parte* Representation of Richard John Michel on behalf of Thelma Rose Colletts (née Green) only child of the deceased.

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The reasoned judgment was not recorded, nevertheless, the Court wishes its decision to appear in the Jersey Unreported series, with a list of the authorities cited at the hearing.

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Advocate R.J. Michel for the Representor.

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**DECISION.**

Richard John Michel (hereinafter called "the representor") represented to the Court:-

- 5 1. That the representor is a partner in the firm of advocates of Messrs. Crills, 44, Esplanade, St. Helier, which firm has been instructed in relation to the Jersey Estate of Sarah Morrison, widow of Samuel Green (hereinafter called the "deceased").
- 10 2. That the deceased died on the 26th November, 1994, at Morton House, Midland Road, Hemel Hempstead, in the County of Hertfordshire, England.
- 15 3. That the deceased left no assets anywhere in the world other than the proceeds of certain life assurance policies with Abbey Life Assurance Company Limited, and of which are payable in the Island of Jersey.
- 20 4. That the deceased executed her last will and testament as to personal and moveable estate in the Island of Jersey on the 14th April, 1983, wherein she appointed Patrick Flinn Cubitt-Sowden and

Francis Charles Hamon executors and trustees of her said will. On the 10th May, 1995, both Patrick Flinn Cubitt-Sowden and Francis Charles Hamon renounced their appointment as executors of the deceased's said will.

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5. That the deceased made no other wills save the said will dated the 14th April, 1983.

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6. That the deceased left the Republic of Ireland in 1980 and ceased to maintain a residence in that country. That if, which is not contended, the deceased retained a domicile of choice in the Republic of Ireland, the deceased's said will is incapable of being admitted to Probate in the High Court, Probate, in the Republic of Ireland. That it is the opinion of Quentin Crivon, a solicitor qualified in the Republic of Ireland and having practised as such for 25 years and being fully conversant with the laws and constitutions of that Republic, as appears by his affidavit dated the 22nd June, 1995, that the said will would not be admitted to probate in the Republic of Ireland on the ground that it is specifically intended for the assets of the deceased situate in the Island of Jersey and in no other jurisdiction.

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7. That for the reasons set out in the affidavit of the daughter of the deceased, Thelma Rose Colletts née Green dated the 19th day of January, 1996, it is contended that the deceased died domiciled in Poland.

Wherefore the representor prayed the Court:-

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(i) to declare that the deceased - having abandoned, initially, her domicile of origin in Poland when adopting a domicile of choice in the Republic of Ireland and having subsequently abandoned that domicile of choice in the Republic of Ireland - died domiciled in Poland, her domicile of origin having automatically revived;

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(ii) to declare that probate of the said will may issue on that basis, there being no basis upon which a grant of probate can be obtained in any other jurisdiction;

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(iii) to appoint the said Thelma Rose Colletts, née Green, or the representor executor dative of the said will.

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Upon reading the said representation and the documents produced in support thereof and upon hearing the representor, the Court:-

(a) declared that the deceased died domiciled in Poland;

(b) declared that probate of the said will may issue;

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- (c) permitted the executors Patrick Flinn Cubitt-Sowden and Francis Charles Hamon to renounce execution of the said will;
- 5 (d) appointed the representor executor dative of the said will; and
- (e) ordered that the costs of the proceedings should be paid out of the gross personal estate of the deceased.

Authorities

Probate (Jersey) Law, 1949: Article 7.

Dicey & Morris: "The Conflict of Laws" (12th Ed'n): Chapter 7;  
pp.115-139.

4 Halsbury 8: paras. 421-446.

Tee -v- Tee (1974) 1 WLR 213 CA.

Flynn -v- Flynn (1968) 1 WLR 103.