

1976, 11

IN THE PRIVY COUNCIL

No. 18 of 1975.

O N A P P E A L
FROM THE HIGH COURT OF AUSTRALIA
PRINCIPAL REGISTRY

IN THE MATTER of the Estate of ALICE BONE deceased

AND IN THE MATTER of the Stamp Duties Act, 1920,
as amended.

B E T W E E N :-

THE COMMISSIONER OF STAMP DUTIES

Appellant

- and -

TREVOR DONALD BONE
DARYL LEONARD BONE and
LILLA KATHLEEN BONE

Respondents

SUPPLEMENT TO THE APPELLANT'S CASE

Messrs. Light & Fulton,
Solicitors,
24 John Street,
Bedford Row,
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London Agent for the
Appellant

ON APPEAL

FROM THE HIGH COURT OF AUSTRALIA PRINCIPAL

REGISTRY

IN THE MATTER of the Estate of ALICE BONE deceased
AND IN THE MATTER of the Stamp Duties Act, 1920
as amended

BETWEEN:

THE COMMISSIONER OF STAMP DUTIES

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SUPPLEMENT TO THE APPELLANT'S CASE

The appellant seeks to supplement his case in the following respects:

1. By inserting on page 9 before the words "Submission of Appellant on Appointment of Executors" a new paragraph 16A reading:

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16A. The appellant submits that on the true construction of section 102 (1)(a) it is sufficient that the property in question should under the will vest in any person. It is not necessary that there should be a person who becomes under the will beneficially entitled to such property.

2. By inserting on page 9 immediately before paragraph 17 a new paragraph, 16B reading:

16B. The property of the deceased vested on her death in the Public Trustee and later in her executors. If the rule as to extinction at law of the rights of action operated still it would do so only when and because such rights became vested in the executors.

3. By inserting on page 10 after the conclusion of paragraph 17, the following new paragraph 17A reading:

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17A. Apart from the effect of clauses 4, 5 and 6 of the will, ~~the appointment of the~~ executors would, by reason of their debts being owned unequally and with differing dates for payment of instalments while residue under the will is shared equally, be deemed in equity upon each instalment falling due to have received it and hold it upon the trusts of residue. These moneys would represent property of the deceased.

4. By inserting on page 13 immediately before paragraph 21, a new paragraph 20A reading:

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20A. It is only if and because the choses in action referred to in clauses 4, 5 and 6 vest in the executors that these clauses can operate upon such choses i.e. the choses must vest even though momentarily in the executors and that is sufficient in accordance with the true construction of section 102 (1)(a) to bring the choses into the estate for duty purposes.

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