THE HIGH COURT

PROBATE

[Record No. 2024 PO 10054]

[2024] IEHC 733

IN THE MATTER OF THE ESTATE OF GEORGE McWILLIAMS LATE OF BALLYCONNEELY, CLIFDEN, IN THE COUNTY OF GALWAY
AND IN THE MATTER OF SECTION 27(4) OF THE SUCCESSION ACT, 1965
AND IN THE MATTER OF THE APPLICATION BY THOMAS McWILLIAMS

Judgment of Ms. Justice Stack delivered on the 18th day of December, 2024.

Introduction

1. This is an application pursuant to s.27 (4) of the Succession Act, 1965, to give the applicant, Thomas McWilliams, liberty to apply for and extract Letters of Administration with Will Annexed *de bonis non* in the estate of George McWilliams, late of Ballyconneely, Clifden in the County of Galway ("the Testator"), who died on 26 January, 1927. At the date of his death, the Testator was entitled to be registered as full owner of certain lands registered in Folio 26237 of the Register, County of Galway ("the Registered Lands"), as well as certain lands of Derrygimlagh being the Glebe House and lands in the parish of Errismore with the Schoolhouse adjoining thereto containing 30 acres, one rood and 30 perches or thereabouts, statute measure, and conveyed to him by Indenture made 31 December, 1924, by the Representative Body of the Church of Ireland ("the Unregistered Lands").

2. The applicant is the Testator's grandson and is entitled to be registered as full owner of part of the Registered Lands and to an estate in fee simple in part of the Unregistered Lands by reason of an Indenture made 28 December, 1979, between his mother, Winifred Frances McWilliams of the one part and the applicant of the other part. This application has become necessary due to the fact that the administration of the estate of the applicant's grandfather, the Testator, was never completed.

3. In the alternative, relief is sought seeking to appoint an independent solicitor to apply for that Grant, but I do not think that is necessary as it is likely only to increase the costs and, given that – as appears from the narrative which follows – there is likely to be at best a bare legal title remaining in the estate, even the limited expenses which would be incurred by a solicitor appointed as a limited administrator in order to extract the Grant and perfect the applicant's title should, in my view, be avoided.

Factual Background

4. The Testator executed his Last Will and Testament on 9 November, 1926, in which he appointed his brother-in-law, William Lavelle, executor of his Will. The Testator's wife, Charlotte Elizabeth McWilliams, was the Testator's universal legatee and devisee. Grant of Probate in the estate of the Testator issued forth of the District Registry of Tuam on 9 January, 1928, to William Lavelle, the sole executor named in the Will. However, it appears that William Lavelle did not assent to the vesting of the Registered Lands in Charlotte, as required in relation to registered freehold land by s. 84 of the Local Registration of Title (Ireland) Act, 1891, discussed in *Lynch v. Harper* [1909] 2 I.R. 53.

5. It should be noted that, insofar as the Unregistered Lands are concerned, these vested in Charlotte by virtue of the Will itself, and did not require an assent as the necessity for an

assent or transfer in such circumstances was only introduced long after the Testator's death, on the commencement of s. 6 of the Administration of Estates Act, 1959. (For a clear statement of the law on the devolution of unregistered freehold property on death, both pre- and post- 1 June, 1959, see Wylie, *Irish Conveyancing Law*, 4th ed., (Bloomsbury Professional, 2019) at para. 6.6.)

6. Charlotte died on 19 September, 1964, having duly executed her last will and testament on 9 July, 1957. In that will, she devised all of the lands to her son, George Howard McWilliams but, in the event that he predeceased her, she devised and bequeathed her interest in all of the lands to her daughter-in-law, Winifred McWilliams, for her life, and thereafter to such child or children of her son, George Howard McWilliams, in such share or shares as the said Winifred McWilliams should in her absolute discretion by deed or will appoint, and in default of appointment, to all the children of George Howard McWilliams equally. She appointed Martin V. Mannion and Bernard O'Flaherty to be the executors and trustees of her will, and a Grant of Probate in her estate issued to them on 26 July, 1968. However, as the Registered Lands had never become vested in her, they therefore did not vest in her executors on her death.

7. Charlotte was predeceased by her son, George, and therefore her daughter-in-law, Winifred, became entitled to a life estate in the lands described in Charlotte's will, which appear to be one and the same as those to which the Testator was entitled on the date of his death. Notwithstanding that those lands had never become vested in Charlotte, on 25 January, 1979, somehow Winifred became registered as limited owner of the lands comprised in Folio 26237, with a note that: *"The settlement is the will proven 22 February, 1958 pf [sic] George St. McWilliams who died 26th July, 1957"*. The reference to *"George St. McWilliams"* is in fact a mistranscription of *"George H. McWilliams"* from the earlier handwritten Folio. Furthermore, while the Folio says that the settlement was created by the Will of George Howard

McWilliams, the Testator's son, it is clear that the relevant settlement was in fact created by the will of the Testator's widow, Charlotte Elizabeth McWilliams.

8. By virtue of the Indenture made 28th December, 1979, Winifred Frances McWilliams exercised the power of appointment conferred on her by the will of Charlotte Elizabeth McWilliams in favour of the applicant in respect of part of the Registered Lands and part of the Unregistered Lands as more particularly described in the Schedules to that Indenture, which I will refer to collectively as *"the applicant's lands"* or *"his lands"*, as appropriate.

9. I am not entirely sure whether all of the Testator's lands were still vested in Charlotte on the date of her death, though the registration of Winifred as limited owner of the entire of Folio 26237 suggests that it was. However, as the typed version of the Folio has been exhibited without the map attached and as only a single page of the manuscript version of the Folio, which is the version recording the Testator's ownership, has been exhibited, I cannot be sure of this. Furthermore, Charlotte's will describes the lands to which she is entitled as *"all my share and interest in the dwellinghouse shop and lands attached thereto on which I reside and also my share and interest in the lands at Derrygimlagh",* which suggests that she may have been entitled at the date of her death only to that part of the Testator's lands which he described in his will as *"my dwelling house with the shop and post office and land pertaining thereto"* and which he provided, in the event that Charlotte predeceased him or remarried, would go to his second son, George Howard McWilliam, the remainder of his lands being the subject of separate devises to his other two sons. In the events that occurred, of course, Charlotte did not predecease him or remarry so that these devises never took effect. However, I suspect that, notwithstanding recital (4) to the 1979 Indenture, the lands other than the *"shop and post office and land pertaining thereto"* were the subject of *inter vivos* voluntary conveyances from Charlotte to her other sons in accordance with her late husband's wishes, and did not form part of Charlotte's estate, though there is no evidence before me to this effect. The material point is

that the Testator's estate may well have comprised lands other than those to which the applicant appears to be beneficially entitled. I refer further to this issue at the conclusion of this judgment.

10. Although this is not on affidavit, I understand that the applicant has been in sole and exclusive possession of the lands appointed to him by the 1979 Indenture for many years. While no period of possession was identified, it seems probable from the evidence that the period is sufficient to extinguish the title of any other person. However, even if this is not accurate, any Order made on this application, the effect of which will be to permit a Grant to be extracted so as to vest the paper title in his lands in the applicant, and indeed to permit him to rectify the title to the remainder of the Testator's lands at the request of any person beneficially entitled thereto, would not prejudice the rights of any person in possession adverse to the title of the applicant and his predecessors-in-title. It does not appear, however, that there is any such person.

11. In order to rectify or perfect his title, the applicant has sought liberty pursuant to s. 27 (4) of the Succession Act, 1965, to extract a Grant of Letters of Administration *de bonis non* in the Testator's estate and, for the purposes of this application, has traced the executorship of the Testator's estate on the basis that the Chain of Representation applies to the Testator's estate.

12. The chain in this case is said to be as follows: The Testator's first executor was his nominated executor, William Lavelle, and the executorship passed thereafter to Rory Lavelle, William Lavelle's executor. Rory Lavelle died on 17 January, 2024, having apparently in his will nominated his sister, Maeve Moran, to be his executrix.

13. It is therefore submitted that Ms. Moran is the executrix of the Testator. However, Ms. Moran, although she has applied for (and may by now have been granted) a Grant of Probate in her brother's estate, says quite reasonably that she wants to confine her efforts to her brother's estate.

14. Ms. Moran seems to have been requested by the applicant's solicitors to extract a Grant *de bonis non* in the estate of the Testator, and she has indicated that she does not wish to do this. However, as I hope is evident from the discussion below of the evolution of the law in this area, if the Chain of Representation survives in Irish law so as to be applicable here, it is not in fact necessary for Ms. Moran to extract any Grant, even in the estate of *"her"* testator, that is, her brother. If the Chain of Representation applies, it does so by virtue of law of quite ancient vintage, and she would be regarded as executrix without extracting any Grant in either estate. Even after the enactment of s. 11 of the Administration of Estates Act, 1959, discussed further below, the chain operated without a need for a new grant in the estate of the original testator.

15. This raises issues as to whether it can be said to be *"necessary"* or *"expedient"* within the meaning of s. 27 (4) of the 1965 Act to, in effect, appoint another executor in the estate of the Testator when there may be an executrix capable of acting, albeit that she does not (for perfectly good reasons) wish to do so.

16. The net issue of law in deciding whether the Chain of Representation continues to apply to the estate of the Testator is whether it has been fully abolished by s. 19 (1) of the Succession Act, 1965, in which case Ms. Moran is not the Testator's executrix and there is no person now entitled to act as executor of the Testator and to perfect the applicant's title.

17. In this application, as I think it is clear from the documents of title furnished in this case, the applicant is beneficially entitled to an estate in fee simple in possession in respect of part of the unregistered lands held by the Testator at the date of his death, and is entitled to be registered as full owner of part of Folio 26237. As any debts owed by the estate (if indeed there were any) must be long since statute barred. That being the case, in the event that there is now no executor of the Testator's estate, it would be necessary to grant liberty to the applicant to extract a Grant *de bonis non* in the estate of the Testator so as to enable him to perfect his title.

18. For the reasons more fully set out below, I am satisfied that it is necessary to permit the applicant to extract such a grant, as the doctrine of the Chain of Representation has been abolished by s. 19 (1) of the 1965 Act such that Maeve Moran is not the executrix of the Testator and there is now no legal personal representative of the Testator who can execute the necessary assent.

19. Furthermore, even if Ms. Moran were the executrix of the Testator by reason of the Chain of Representation, in my view it would be expedient in any event to permit the applicant extract the necessary Grant as it is difficult to see why Ms. Moran should be troubled by the applicant's need to perfect his title. However, that does not arise here as she is not the executrix in any event.

The Legal Issue Arising

20. It was submitted to me that, as the proving executor of the Testator, William Lavelle, died in 1962 and therefore prior to the commencement of the 1965 Act on 1 January, 1967, s. 19 (1) of the 1965 Act has no application. It was said that, where the executor who creates the chain died prior to the commencement of the 1965 Act, the Chain of Representation continues to operate in Irish law.

21. This submission was based on a commentary in Spierin, which is discussed further below, as well as a practice direction currently published on the website of Tailte Éireann. Unfortunately, in neither source is any authority cited for this proposition and it appears to be based on a particular interpretation of section 19 (1). However, before turning to the interpretation of s. 19, it is worth putting that provision in its historical context.

The Chain of Representation prior to the commencement of the Succession Act, 1965

22. According to the Explanatory Memorandum to the Administration of Estates Act, 1959, which was the first Irish statute to address the issue, the Chain of Representation, whereby the executor of an executor of another testator thereby became the executor of that testator, was originally found in an old Statute: (1351-52) dating back to Edward III and applied to Ireland by Poynings' Law (1495, c. 22).

23. The old statute in question is identified in the Second Schedule to the Administration of Estates Act, 1959, as 25 Edward 3, st. 5, c. 5, (1351-2) and entitled *"Executors of executors shall have the same rights and duties as the first executors."* This statute was repealed in its entirety by s. 3 of the 1959 Act, but only in respect of the estates of persons dying after 1 June, 1959. It therefore does not apply to the Testator's estate, but in my view forms part of the legislative history of s. 19 of the 1965 Act, the correct interpretation of which is in issue in this application and is therefore relevant.

24. Section 11 introduced a requirement that each succeeding executor should extract a Grant of Probate in the estate of his testator. It provided:

> *"(1) (a) An executor of a sole or last surviving executor of a testator is the executor of that testator.*
>
> *(b) Paragraph (a) of this subsection does not apply to an executor who does not prove the will of his testator, and, in the case of an executor who on his death leaves surviving him some other executor of his testator who afterwards proves the will of that testator, it shall cease to apply on such probate being granted.*
>
> *(2) So long as the chain of such representation is unbroken, the last executor in the chain is the executor of every preceding testator.*
>
> *(3) The chain of such representation is broken by—*

(a) an intestacy, or

(b) the failure of a testator to appoint an executor, or

(c) the failure to obtain probate of a will,

but is not broken by a temporary grant of administration if probate is subsequently granted.

(4) Every person in the chain of representation to a testator—

(a) has the same rights in respect of the real and personal estate of that testator as the original executor would have had if living, and

(b) is, to the extent to which the estate, whether real or personal, of that testator has come to his hands, answerable as if he were an original executor."

25. Section 11 is – other than a slightly different mode of drafting in sub-s. (1) – in identical terms to s. 7 (1) of the Administration of Estates Act, 1925, which remains the law in England and Wales. As explained by Williams, Mortimer and Sunnucks, *Executors, Administrators and Probate*, (Thomson Reuters, 2023) (at para. 6-67 and fn 248), s. 7 of the 1925 Act introduced a requirement that an executor must now prove the will of his testator, which apparently was not formerly the case.

26. The purpose of s. 11 of the 1959 Act therefore seems to have been to introduce a requirement that the Chain of Representation would only apply to an executor who proved the will of his testator. In order for the Chain to remain unbroken, each executor in the Chain would have to extract a Grant of Probate to the estate of his testator, that is, the testator who had nominated him as executor in his will. It remained the case that there was no need to extract a further grant in the estate of any testator of any previous executors in the chain.

27. This was consistent with a more general provision in the Act – already alluded to above – that unregistered real property, which originally became vested in the beneficiary by virtue of the will itself, from the commencement of the 1959 Act thereafter devolved on and vested

in a testator's personal representative who had power to assent to the vesting of it in the persons entitled to it: ss. 6 and 20 of the 1959 Act. As previously stated, this requirement already applied to registered freehold property.

28. However, it is in any event clear that s. 11 does not apply to the estate of the Testator, as he died prior to 1 June, 1959, and s. 3 of the 1959 Act provides that s. 11 applies only to the estates of those who died after 1 June, 1959. As we are concerned with the estate of the Testator, s. 11 of the Act therefore does not apply. It does, however, illuminate the evolving policy of the Oireachtas on this issue, as it suggests that it was thought preferable that the executor of a testator would be identified by reference to Grants of Probate rather than by wills alone.

Section 19 of the Succession Act, 1965

29. The 1959 Act was repealed by the Succession Act, 1965, with effect from 1 January, 1967. That in itself would have no effect on the operation of the Chain of Representation which had applied to the estate of the Testator, as his estate remained governed by the pre-1959 law.

30. However, s. 19 of the 1965 Act, is, on its face, a far-reaching provision. It provides:

> *"(1) Where the sole or last surviving executor of a testator dies after the commencement of this Act, the executor of such executor shall not be the executor of that testator.*
>
> *(2) This section applies whether the testator died before or after the commencement of this Act."*

31. On the plain wording of this provision, which does not qualify *"executor"* (for example by referring to the *"proving executor"*), it applies to the death of *any* executor, including one who became the executor of a testator by virtue of being the executor of the executor of that testator.

32. Counsel for the applicant quite properly opened to me the commentary in Spierin, *The Succession Act 1965 and Related Legislation: A Commentary,* 6th Ed. (Bloomsbury Professional, 2024) where it is stated (at p. 79) that the restriction in s.19 (1) was governed by the date of death of the sole or last surviving *proving* executor of the Testator:

> "*This section has retrospective effect. In England, the chain of executorship has been retained. It will only apply in Ireland where the will was initially proved prior to 1967 and the proving executor died before 1967 — there must be few, if any, cases where a chain of executorship can now apply."*

33. Similarly, the following Practice Direction ("Devolution and Transmission", *Tailte Éireann*, 13 March 2019, https://www.tailte.ie/en/registration/legal-practices/practice-directions/devolution-and-transmission/ accessed 18 December 2024) states:

> ***"Chain of Executorship*** *Prior to the Succession Act, 1965, the executor of a sole or last surviving executor was the executor of the original testator. Because of Section 19 of the Succession Act, such a chain does not arise in the case of an executor who died after 1st January, 1967. However, it continues to apply in respect of an executor who was such by reason of a chain of executorship arising before the Succession Act came into operation, i.e., where the executor whose death created the chain died before 1st January, 1967."*

34. It is not clear where this limitation on the operation of s. 19 (1) is said to come from and the starting point of any question of statutory interpretation is the words of the provision itself. I do not think on the plain words of the section that the operation of s. 19 (1) is confined to executors who, by proving the will of the testator in question, commenced the Chain of Representation. The Act itself does not refer to a "*proving* executor" nor does it – as does s.11 (1) (b) of the 1959 Act – refer to *"an executor who [proves] the will of his testator"*. Neither does s. 19 (1) speak of an *"the sole or last surviving executor of <u>his</u> testator",* that is, the

testator who nominated the executor in his will, even though that language was used in s. 11 of the 1959 Act to make it clear that the executor being spoken of was the proving executor of the testator in question.

35. Section 19 simply talks about the *"executor of a testator"*, which suggests that there was no qualification on how the person came to be executor of the testator in question. As every subsequent executor of an executor thereby becomes an executor of that testator, each of them falls within the natural and ordinary meaning of the key phrase in s. 19 (1), *"the sole or last surviving executor of a testator"*.

36. There is nothing in the words of s. 19 (1) to limit the type of executor being spoken of to the original executor who proved the Will of the Testator in question. Although it does not apply to this estate, s. 11 (1) (a) of the 1959 Act made it very clear that the executor of a sole or last surviving executor of testator was *"the executor"* of that testator. Such a person is clearly caught by s.19 (1), and it is to that person, that is an executor who has become executor of a testator by reason of being the sole or last surviving executor of that testator's executor, whose death is referred to in section 19 (1).

37. The reference to *"sole or last surviving executor"* does not suggest that the executor or executors being referred to in s. 19 (1) are the proving executors of the original testator: application of the Chain of Representation where more than one executor was nominated in the will of the executor of the original testator (or indeed a subsequent executor in the Chain), and where one of the nominated executors reserves his rights, has been the subject of some discussion as to how the surviving executor is to be identified for the purposes of ascertaining whether the Chain has continued in being and who the next executor is: see *Miller's Irish Probate Practice, 1900* (1980 Reprint, Professional Books Limited) at pp. 203-4, and Williams, Mortimer and Sunnucks, at para. 6-69.

38. Furthermore, to interpret s.19 (1) in this way overlooks the fact that the doctrine of the Chain of Representation, as originally contemplated, operated without the necessity to extract a Grant of Probate. That position was altered by s. 11 of the 1959 Act which provided that it was necessary for an executor to approve the will of *"his testator"*.

39. As s. 11 was repealed by the 1965 Act, it would seem strange if the original doctrine would once more apply so as to provide for a Chain of Representation without the need for any of the executors in the chain to obtain a Grant of Probate in the estate of their testators. In other respects, notably by providing in s. 10 that real property would vest in and devolve upon the legal personal representatives of a testator, thereby preserving the need for an assent from an executor in the case of unregistered freehold land which had first been introduced by s. 6 of the Administration of Estates Act, 1959, the 1965 Act retained the policy of the 1959 Act as regards the administration of estates. This was that property, including real property, would vest in the legal personal representative who would assent to its vesting in the person entitled, rather than vesting in the beneficiaries by reason of the will itself.

40. It would be somewhat strange if the Oireachtas had reverted to the law as it stood from the 14th century whereby various wills could be examined to identify who was the next executor in the chain. Wills are not published until they are admitted to probate, and it is not uncommon for there to be some uncertainty about which of a testator's will was his last will, for example, where there are doubts about the testator's capacity at the time of what is apparently the last will. By contrast, a search can easily be made for a Grant of Probate so as to identify the legal personal representative. It seems much more likely that the Oireachtas decided to abolish the operation of the doctrine altogether.

41. It should also be noted also that the interpretation of s. 19 (1) posited in Spierin and in the practice direction published by Tailte Éireann is not mentioned in authoritative commentaries on the 1965 Act, published shortly after its enactment.

42. McGuire, *The Succession Act, 1965*, The Incorporated Law Society of Ireland, 1968), at p.23, provides the following comment on s.19 of the 1965 Act:-

> *"This Section abolishes the doctrine of the Chain of Representation, first found in an old Statute (1351-52) dating back to Edward III, and applied to Ireland by Poynings Law (1495). This doctrine was repeated in Section 11 of the 1959 Act. The new rule is more logical, since the person benefiting under the Will of a Testator must have a greater interest in prudently administering the estate, than the Executor of an Executor who had imposed on him the administration of the estate of a Testator who was probably unknown to him. In this instance also, the Section applies whether the Testator died before or after the 1st January, 1967."*

43. As is evident from that passage, McGuire did not state that the Chain of Representation would survive if the executor who created the Chain died prior to the commencement of the 1965 Act.

44. Neither does Robert A. Pearce, a distinguished academic, identify any such qualification on the operation of s. 19 (1) in the second edition of that work, *The Succession Act, 1965*, (The Incorporated Law Society of Ireland, 1986). He comments on s. 19 in the following terms (at p. 53):-

> "*This section abolishes the doctrine of executorship by representation under which an executor of a sole or last surviving executor of the testator became the executor of that testator without the need for a new grant. It was thus possible to have a chain of representation continuing until all previous estates had been fully administered. The chain subsisted only through executors and would be broken on an intestacy, or where there is no executor."*

45. Similarly, Professor James C. Brady, in both editions of *Succession Law In Ireland* (published in 1989 and 1995, respectively), discusses the Chain of Representation without any

reference whatsoever to its supposed continuance where the executor who created the chain died prior to 1 January, 1967. As the facts of this case show, if the chain were to continue in effect as suggested, such chains could survive for many years after the commencement of section 19 (1). At the time of publication of the first edition of Professor Brady's work (Butterworths (Ireland) Limited, 1989), one could assume, a mere 22 years after the commencement of the Act, that the possible continuance of the Chain of Representation where the proving executor of the testator died prior to 1 January, 1967, would be a relatively live issue, with much greater cause to debate its continuing relevance. However, in the discussion of the doctrine (paras. 9.4.2.-9.4.3), there is no mention whatsoever of any continued relevance of the doctrine, the author merely stating that:

> *"The chain of executorship rule was removed from Irish law by section 19 of the Succession Act …"*

46. The discussion in the 2nd edition (Butterworths Ireland Ltd, 1995) is in similarly unqualified terms: see para. 9.22. Indeed, in both editions, the author mentions that a conveyancing sub-committee of the Law Reform Commission of which the author was a member, recommended that it should not be restored to Irish law, despite its convenience to conveyancers. Again, there is no mention whatsoever that this convenient method of avoiding the necessity for applying to a Grant *de bonis non* enjoyed a continued life in Irish law. In conveyancing terms, it would not be unusual to trace the chain of title back 20 or 30 years, and one would therefore have expected the continued applicability of the doctrine of the Chain of Representation to have attracted some attention from Professor Brady in his book, and from the Law Reform Commission subcommittee to which he refers.

Conclusion

47. In conclusion, s. 19 (1) applies in this case as the surviving executor of the Testator, Rory Mellowes, died after the commencement of the Act – and indeed only earlier this year. As a result, his executrix, Ms. Moran is not the executor of the Testator.

48. However, it seems on the evidence before me that the applicant is entitled to be registered as full owner of a portion of the Registered Lands and is beneficially entitled to a portion of the Unregistered Lands for an estate in fee simple in possession.

49. Insofar as it is necessary to obtain an assent from the legal personal representative of the Testator so as to vest bare legal title to his Lands in the applicant, that is in any event sufficient to justify an order pursuant to s. 27 (4) of the 1965 Act, giving liberty to the applicant to extract a Grant of Letters of Administration with Will Annexed *de bonis non.* Insofar as the applicant is not entitled to be registered as full owner of the remainder of the Registered Lands, he can of course be compelled (if necessary) to transfer them by any person proving that they have such entitlement.

50. Finally, I don't think it is either necessary or expedient to limit the grant to the Registered Lands to which the applicant is entitled, as that may necessitate another application for a similar grant in respect of the remainder of the Testator's lands. Assuming that the lands described in the will of Charlotte Elizabeth are coextensive with the Testator's lands, the power of appointment conferred by that will was restricted to the applicant and his siblings. Insofar as they or their successors-in-title require their title to be perfected, the applicant will be in a position to assist them by virtue of the Grant which will issue to him on foot of this Order. However, even if the lands the subject of the settlement created by Charlotte's will do not capture all of the Testator's lands, a grant to the Testator in respect of the entire of the

unadministered estate will only make it easier for any person entitled to those other lands to perfect their title also, if necessary.