

Sixty years ago by a properly executed and recorded deed, a man conveyed a tract of land: "To my grandson for life, then to my grandson's widow for her life, then to my grandson's child or children in equal shares." At that time, the grandson was six years old.

Shortly thereafter, the man died testate. The grandson was the man's only heir at law. The man's will left his entire estate to his church.

Twenty-five years ago, when he was 41, the grandson married a woman who was then 20 years old; they had one child, a son. The grandson's wife and son were killed in an automobile accident three years ago when the son was 21. The son died testate, leaving his entire estate to a charity. His father, the grandson, was his sole heir at law.

Two years ago, the grandson married another woman. They had no children. This year, the grandson died testate, survived by his widow, to whom he left his entire estate.

The common law Rule Against Perpetuities is unchanged by statute in the jurisdiction.

In an appropriate action to determine ownership of the land, the court should find that title is vested in whom?

- A. The charity, because the son had a vested remainder interest (as the only child of the grandson) that it inherited, the life estate to the grandson's widow being of no force and effect.
- B. The church, because the grandson's widow was unborn at the time of conveyance and, hence, the remainder violated the Rule Against Perpetuities.
- C. The grandson's widow, because her life estate and her inheritance from the grandson (who was the man's sole heir at law and who was the son's sole heir at law) merged the entire title in her.
- D. The grandson's widow for life under the terms of the man's deed, with the remainder to the charity as the successor in interest to the son, the grandson's only child.

### Explanation:

A **life estate** is a present possessory interest in land that terminates on the death of an individual. The future-interest holder becomes entitled to possession once that death occurs. The **future interest** is either a reversion (if retained by the grantor) or a **remainder** (if created in **someone other than the grantor**). Both are fully transferable inter vivos,\* **devisable by will**, and descendible by inheritance.

Here, the man **conveyed** a life estate to his grandson, which would pass first to the grandson's widow for life (remainder in life estate) and then to the grandson's child or children (remainder in fee simple absolute). The grandson had just one child, a son. Since the son died testate (ie, with a will), he effectively left his remainder interest in the land to the charity. Therefore, after the grandson's death, the widow had a life estate and the charity had the son's remainder interest (**Choices A & C**).

\*At common law and in a minority of jurisdictions, **contingent remainders** cannot be transferred inter vivos.

**(Choice B)** The **Rule Against Perpetuities** (RAP) renders a future interest void if there is any possibility that it could vest more than 21 years after the death of some relevant person alive when the interest was created. But here, the widow's remainder interest did *not* violate RAP because it necessarily vested at the death of the grandson.

### Educational objective:

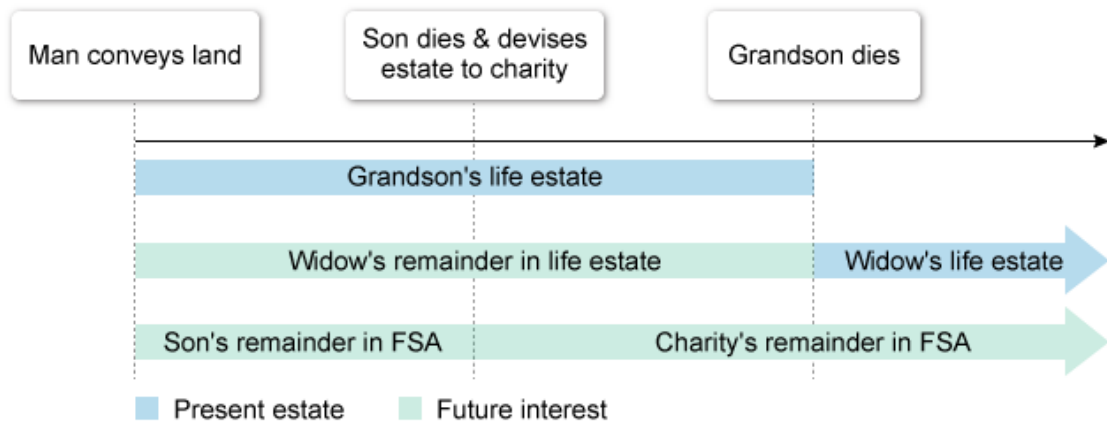
The future interest that follows a life estate is either a reversion (if held by the grantor) or a remainder (if created in someone other than the grantor). Both are transferable, devisable, and descendible.

### References

Restatement of Property § 157 (Am. Law Inst. 1936) (discussing the classification of remainders).

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