

A man conveyed his house to his wife for life, remainder to his only child, a son by a previous marriage. Thereafter, the man died, devising his entire estate to his son.

The wife later removed a light fixture in the dining room of the house and replaced it with a chandelier that was one of her family heirlooms. She then informed her nephew and her late husband's son that after her death, the chandelier should be removed from the dining room and replaced with the former light fixture, which she had stored in the basement.

The wife died and under her will bequeathed her entire estate to her nephew. She also named the nephew as the personal representative of her estate. After the nephew, in his capacity as personal representative, removed the chandelier and replaced it with the original light fixture shortly after the wife's death, the son sued to have the chandelier reinstalled.

Who will likely prevail?

- A. The nephew, because he had the right to remove the chandelier within a reasonable time after the wife's death.
- B. The nephew, because of the doctrine of accession.
- C. The son, because a personal representative can remove only trade fixtures from real property.
- D. The son, because the chandelier could not be legally removed after the death of the wife.

Explanation:

When a life tenant, the holder of a life estate, **annexes** (ie, attaches) a **chattel** to the property, the life tenant—or his/her personal representative—has the **right to remove** the chattel within a **reasonable time** after the estate ends if:

the life tenant did **not intend** for the annexation to be **permanent** *and* the chattel can be **removed without substantial damage** to the property or the chattel.

Here, the man **conveyed** a life estate in the house to his wife (life tenant), who installed a chandelier (chattel) in the dining room. The wife did not intend to permanently annex the chandelier because she said it should be removed after her death. Additionally, there is no evidence that its removal caused any damage. Therefore, the nephew (the wife's personal representative) had the right to remove the chandelier within a reasonable time after her death (the termination of her life estate).

(Choice B) Under the doctrine of accession, ownership of an annexed chattel passes to the real property owner when the chattel cannot be removed without causing substantial damage. This doctrine does not apply here because the chandelier can likely be removed without causing damage. But if this doctrine did apply, then the son—not the nephew—would prevail.

(Choice C) The right to remove a chattel when a life estate ends is not limited to trade fixtures (chattels installed for use in the tenant's trade or business—eg, store display counters, restaurant equipment).

(Choice D) As the wife's personal representative, the nephew *could* legally remove the chandelier within a reasonable time after her death.

Educational objective:

A life tenant (or his/her personal representative) may remove an annexed chattel within a reasonable time after the life estate ends if (1) the life tenant did not intend to permanently annex the chattel and (2) its removal will not cause substantial damage.

References

Restatement (First) of Property § 122 (Am. Law Inst. 1936) (life tenant's right to remove fixtures).

Restatement (Second) of Property: Landlord & Tenant § 12.2 (Am. Law Inst. 1977) (tenant's rights and obligations as to physical changes to the property).

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Life tenant's right to remove chattel

