

A woman died testate. In her will, she devised a farm she owned to her husband for life, remainder to her niece. Her will did not specify the duties of the husband and the niece with regard to maintenance and expenses related to the farm. The husband took sole possession of the farm, did not farm the land, and did not rent the land to a third person, although the fair rental value was substantial.

For two years in a row after the woman died, the county assessor sent the tax bills to the niece. However, the niece did not pay the bills, because she and the husband could not agree on who should pay them. Finally, the niece paid the taxes to avoid a tax foreclosure sale.

The niece then sued the husband for reimbursement for the two years' worth of property taxes.

There is no applicable statute.

Is the niece likely to prevail?

- A. No, because remaindermen are solely responsible for the payment of property taxes.
- B. No, because the county assessor sent the bills to the niece.
- C. No, because the woman's will was silent on responsibility for payment of property taxes.
- D. Yes, because the niece paid an obligation that was the sole responsibility of the husband.

Explanation:

Life tenant's duties

Duty to pay current charges	Life tenant must pay all current charges due during life tenancy (eg, property taxes, mortgage interest) up to financial benefit received from property
Duty to prevent waste	Life tenant must prevent affirmative waste (ie, voluntary waste), permissive waste & ameliorative waste
Duty to make ordinary repairs	Life tenant must make reasonable repairs to preserve property

The holder of a life estate (ie, the **life tenant**) has a **duty to pay current charges**—eg, property taxes and mortgage interest—unless the document creating the life estate provides otherwise. This duty is limited to the amount of income that can be generated from the land. If the holder of the remainder (ie, the **remainderman**) pays the current property charges instead, then the remainderman is **entitled to reimbursement** from the life tenant.

Here, the woman's will **granted** the husband a life estate but was silent regarding the duty to pay current charges. Therefore, the husband (life tenant) had a duty to pay those charges—including the property taxes—up to the amount of income the farm could generate. Because the farm's fair rental value was substantial, the husband was obligated to pay all the property taxes. But since the niece (remainderman) ultimately paid those taxes, she is entitled to reimbursement from the husband.

(Choices A & C) Life tenants—not remaindermen—are solely responsible for all current charges unless the document creating the life estate provides otherwise. Here, the woman's will was silent on the matter, so the property taxes were the husband's sole responsibility.

(Choice B) The fact that the county assessor sent the tax bills to the niece has no effect on the husband's obligation to pay or reimburse the property taxes.

Educational objective:

Unless the document creating the life estate provides otherwise, a life tenant has the duty to pay all current charges (eg, property taxes, mortgage interest) up to the amount of income that can be generated from the land.

References

Restatement (First) of Property §§ 129–130 (Am. Law Inst. 1936) (life tenant's duty to pay current charges).

Copyright © UWorld. All rights reserved.