

An elderly woman owned a large manor in fee simple. Because of her advanced age, she no longer wished to deal with maintenance and other obligations associated with homeownership. She therefore conveyed the manor to her eldest son for life, remainder to her youngest son.

The youngest son took ill and died three years later, leaving his entire estate to a friend under the terms of his duly executed will. The youngest son was survived by his daughter, his sole heir. The eldest son died six months later, survived by the elderly woman, the friend, and the daughter.

The jurisdiction in which the manor is situated recognizes traditional common-law rules regarding the destructibility of contingent remainders.

In an appropriate action between the elderly woman, the friend, and the daughter to determine title to the manor, who will prevail?

- A. The daughter, because she is the youngest son's heir.
- B. The elderly woman, because she had a reversion that entitled her to possession of the manor immediately upon the eldest son's death.
- C. The elderly woman, because the youngest son's contingent remainder was destroyed when he predeceased the eldest son.
- D. The friend, because the youngest son's vested remainder was transferred by his will.

Explanation:

A **life estate** is a present possessory interest in real property that terminates on the death of an individual. The **future interest** that follows a life estate is either a reversion (if held by the grantor) or a **remainder** (if **created in a grantee**—as seen here). Remainders are either:

vested – not subject to any condition precedent AND held by an identifiable living person (eg, "remainder to my youngest son") *or*

contingent – subject to a condition precedent OR held by an unknown or unborn person (eg, "remainder to my youngest son, but only if...").

Both types of remainders are **fully transferable** during the grantee's lifetime,* **devisable by will**, and **inheritable through intestate succession**.

Here, the elderly woman conveyed the manor to her eldest son for life, remainder to her youngest son. Since the manor would go to the youngest son *unconditionally* when the eldest son died, the youngest son had a vested remainder. That remainder was devisable, so it transferred to his friend under the terms of his duly executed will. And since the eldest son has since died, the friend has title to the manor in fee simple.

*At common law and in a minority of jurisdictions, contingent remainders are not transferable during the grantee's lifetime.

(Choice A) The daughter has no interest in the manor because the youngest son devised his vested remainder to the friend.

(Choice B) The elderly woman (grantor) did *not* have a reversion that entitled her to possession immediately upon the eldest son's death. Instead, the friend was entitled to possession of the manor at that time because he had the youngest son's remainder interest.

(Choice C) At common law and in this jurisdiction, *contingent* remainders are destroyed if they have not vested by the time the prior estate terminates. But this rule does not affect the youngest son's *vested* remainder.

Educational objective:

Remainders—whether they are vested or contingent—are fully transferable during the grantee's lifetime, devisable by will, and inheritable through intestate succession.

References

Moore v. McKinley, 69 N.W.2d 73, 80 (Iowa 1955) (describing the difference between vested and contingent remainders).

