

A landowner died, validly devising his land to his wife "for life or until remarriage, then to" their daughter. Shortly after the landowner's death, his daughter executed an instrument in the proper form of a deed, purporting to convey the land to her friend. A year later, the daughter died intestate, with her mother, the original landowner's wife, as her sole heir. The following month, the wife remarried. The wife then executed an instrument in the proper form of a deed, purporting to convey the land to her new husband as a wedding gift.

Who now owns what interest in the land?

- A. The daughter's friend owns the fee simple.
- B. The wife owns the fee simple.
- C. The wife's new husband has a life estate in the land for the wife's life, with the remainder in the daughter's friend.
- D. The wife's new husband owns the fee simple.

Explanation:

A **defeasible life estate** is a present interest that **terminates** upon the **death** of an individual OR the happening of a **stated event**. The future-interest holder (ie, remainderman) acquires possession of the estate when the death or event occurs. **Future interests** are **alienable**—ie, the remainderman can **freely convey** that interest.

Here, the landowner devised a defeasible life estate in the land to his wife, which would pass to their daughter upon the wife's death or remarriage. Therefore, the daughter had a future interest that she properly conveyed to a friend, making the friend the new remainderman. When the wife remarried (and terminated her life estate), the land automatically transferred to the remainderman—the friend—in fee simple.

(Choices B & D) The wife had a defeasible life estate—not a fee simple—that ended when she remarried. As a result, the wife could only acquire a fee simple (or convey it to her new husband) if she inherited the daughter's future interest. Since the daughter did not hold the future interest when she died (she had already conveyed it to her friend), that interest never passed to the wife. Therefore, neither the wife nor the new husband owns the fee simple.

(Choice C) Since the wife's life estate terminated as soon as she remarried, she did not have a property interest to deed to the new husband. As a result, the new husband does not have an interest in the land.

Educational objective:

A future interest that follows a defeasible life estate becomes possessory upon the death of an individual or the happening of a stated event. Future interests are alienable, meaning that the future-interest holder (ie, remainderman) can freely convey his/her interest.

References

Restatement (Third) of Property: Wills & Other Donative Transfers § 24.5 (Am. Law Inst. 2011) (life estates).

Restatement (Third) of Property: Wills & Other Donative Transfers § 25.2 (Am. Law Inst. 2011) (reversions and remainders).

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