

A man owned a tract of land in fee simple. Five years ago, he executed and delivered to his sister an instrument in the proper form of a warranty deed that conveyed the land to the sister "for and during the term of her natural life." No other estate or interest or person taking an interest was mentioned. The sister took possession of the land and has remained in possession.

Fifteen months ago, the man died, leaving a will that has been duly admitted to probate. The will, inter alia, had the following provision: "I devise the land to my wife for her natural life and from and after my wife's death to my son, his heirs and assigns, forever."

Administration of the man's estate has been completed. The man's wife claims the immediate right to possession of the land. His son also asserts a right to immediate possession.

In an appropriate lawsuit to which the sister, the wife, and the son are parties, who should be adjudged to have the right to immediate possession?

- A. The sister, because no subsequent act of the man would affect her life estate.
- B. The son, because the sister's estate terminated with the man's death and all that the man had was the right to transfer his reversion in fee simple.
- C. The wife, because the man's will was the final and definitive expression of his intent.
- D. The wife, because the sister's estate terminated with the death of the man.

Explanation:

Types of life estates

| | Words of purchase | Words of limitation | Defining characteristic |
|--------------------|-------------------|---------------------|---|
| Life estate | "To A" | "for life" | Ownership for duration of life of grantee |
| Life estate | "To A" | "for the life of B" | Ownership for duration of life of person other than grantee |

pur autre vie

A **life estate** is a present possessory estate that terminates on the death of an individual. The **future interest** that follows a life estate is either a remainder (if created in a grantee) or a **reversion** (if **retained by the grantor**). If a grantor conveys a life estate without specifying who holds the future interest, then it is **presumed** that the grantor retains a reversion. This interest is fully transferable during the grantor's lifetime, devisable by will, and inheritable through intestate succession.

Here, the man conveyed a life estate in the land to his sister that would terminate when she died. The conveyance mentioned no other person or interest, so it is presumed that the man retained a reversion entitling him to possession of the land once the sister died. Until that time, however, the most the man could convey was his reversionary interest. Therefore, the man could do nothing that would affect the sister's life estate, and she should be adjudged to have the right to immediate possession of the land (**Choices B, C & D**).

Educational objective:

If a grantor conveys a life estate without specifying who holds the future interest, the grantor presumptively retains a reversion.

References

Restatement of Property § 107 (Am. Law Inst. 1936) (discussing life estates).

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