

[1803-13] All ER Rep 178; Also reported 14 Ves 341; 33 ER 552

of her brother, John Simpson, and also of all other claims and demands whatsoever upon the estate of John Simpson or upon her estate on account of her executorship or otherwise, declaring her will and intention that the said devised premises at Hemingborough should be accepted and taken by her brother Michael, in full satisfaction and discharge of the said legacy and of all such other claims and demands, as aforesaid: but, if her brother Michael should refuse or neglect to comply with the condition, she declared her will and intention to be that at the expiration of the said six calendar months after her decease the devise to him should become void. In that case from and after the expiration of the said six calendar months she gave and devised all her freehold and copyhold estates at Hemingborough to Sarah Milner, her heirs and assigns for ever, appointing her sole executrix.

The testatrix died on 2 December 1794. Michael Simpson contested the validity of her will in the Prerogative Court, and afterwards by appeal to the Court of Delegates; but probate was on 15 July 1798, granted to [REDACTED]

The bill was filed by Michael Simpson against [REDACTED] and his wife and purchasers under them stating that within six months after probate had been granted to the defendant [REDACTED] viz, 14 January 1799, the plaintiff had proposed to execute the release, required by the testatrix and to pay the costs, on having the estate at Hemingborough conveyed to him and praying a conveyance accordingly.

NOTES:

As to conditions in a will binding on donee and the time of the performance of a condition, see 39 HALSBURY'S LAWS (3rd Edn) 928, 930, 931; and for cases see 48 DIGEST (Repl) 296 et seq, 341 et seq.

COUNSEL:

Richards, Hart and Bell for the plaintiff Alexander, Hall and Wellfitt for the defendants.

JUDGMENT-READ:

11 AUG 1807

PANEL: SIR WILLIAM GRANT MR

JUDGMENT-1:

SIR WILLIAM GRANT MR:

The question arises upon the will of Elizabeth Simpson. For the plaintiff it was contended first that there is no forfeiture, as he could not perform the condition until the question

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