

No. 5593 Equity

Herman D. Ordeman died before my death, whereby I should have become possessed of his estate under his said will, I do will and devise to making a full disposition of the entire estate. From these two wills, we must conclude that Mr. Ordeman intended to give his wife the absolute control and disposition of the entire estate, in the event of her surviving him. He knew that she had made her will, and that there was in it no mention of the "Corner" property. In consenting to her will he says, "I, x x x do hereby give my consent to the making of the foregoing will by my said wife." It is but reasonable to suppose he had read, or had heard it read before he gave his consent thereto. The wife in the second clause of her will uses the expression, "except as hereinafter excepted," the sense in meaning as that employed by the husband. This expression might induce me to suppose she intended an exception of some of her property in favor of some of her children, but as she has made none, we must take her will as it stands, and as giving to her son Daniel, the one sixth of her estate. Why Daniel was to get the "Corner" property if his mother died first, and was not to get it if she survived his father, we cannot say, and as on this subject we can only surmise, it would be useless for us to enter the wide field of conjecture.

The Court is therefore of the opinion that the "Corner" property does not pass to Daniel J. Ordeman under the will of Herman D. Ordeman but that he takes the one sixth of the estate under the will of Catharine Ordeman his mother.

We have endeavored to ascertain the intention of the deceased parties from a careful examination of their wills, this must govern in their construction and can be gathered only from the face of the writing.

I am authorized to state that Chief Judge McSherry who heard this cause argued, concurs in the conclusion reached in the foregoing opinion.

It is therefore this 7th day of May A.D. 1890, Ordered and decreed by the Circuit Court for Frederick County as a Court of Equity and by the Authority thereof that the said Daniel J. Ordeman is not entitled to take the interest of Herman D. Ordeman in the property situated on the Corner of Patrick and Market Streets in Frederick City mentioned in the last will of said Herman D. Ordeman, under his said will.

And it is further Ordered and decreed, by the Authority aforesaid, that the said Daniel J. Ordeman is entitled to take the one sixth part of the estate of his mother Catharine Ordeman, as is bequeathed to him in her said last will and testament.

Filed May 7, 1890.

John A. Lynch
Judge of the Cir. Court

levied and situated direct seized land of divided under Ordeman of deed to dollars less five absolutely ment of follows tially as Corner 2. and to the and not Property under wife. he no to whole + dispose of Mr. ties by the of Mrs. all after o in favor two can, see his property Ordeman in the is before he took he took husband hereby he my said