

No. 7085 Equity.

factory, partially with its raw material and that only the real estate in Baltimore City be divided in three several parts, either by actual division or by sale, as may be found necessary so that with respect to it, there shall be vested in severalty one third in Frank Goode, one third in Ignatius Goode and the other third in them as Trustees, for Mrs. Fannie Fitzpatrick and her children Your Orotor now that he cannot without great personal risk construe the Trust imposed upon him of division and the powers therein granted in such a way as to carry out the wishes of the aforesaid devisees and it becomes necessary for him, therefore, to resort to this Court to have the said will construed, particularly in that part which imposes upon him the Trust of division of the residue and in addition to the construction of the will, in these particular that the Court may take full jurisdiction of the Trust imposed upon your orator of the division of this residue, and full jurisdiction of the further administration of the said estate.

V.

As further showing the necessity of a resort to a Court of Equity on the part of your orator Executor of last Will and Testament of James M. Murray deceased, your orator states as follows, that shortly after the death of James M. Murray a caveat was filed to her last Will and Testament by John L. M. Dermott, a nephew of the deceased, who has already been mentioned in this Bill as being a legatee under the following section of the will of said decedent to wit: - "To the Safe Deposit and Trust Company of Baltimore the sum of five thousand dollars in trust to pay the income arising from investing the same to my nephew John L. M. Dermott, during the term of his natural life, and after his death that the same may fall into and become a part of the residue of my estate, This caveat being filed before the will was admitted to probate in common form, your orator, Edgar H. Gans, was duly appointed by the Orphans Court of Baltimore City, Administrator pendente lite, and duly managed and administered the personal estate in his capacity as Administrator pendente lite until the probate of the will, which said probate was brought about as hereinafter stated, A certified copy of the final account of Edgar H. Gans, Administrator pendente lite showing a full settlement of the estate in that capacity is herewith filed, marked "Marked Plaintiff's Exhibit No. 7" About the same time as the appointment of the Administrator pendente lite upon Equity proceedings filed by the caveat in the Circuit Court of Baltimore City one Alex. Yealy, Jr. was appointed Receiver of the Real Estate pending the caveat of the will and his proceedings as receiver are fully shown by a certified copy of his final account which is herewith filed "Marked Plaintiff's Exhibit No. 8" The devisees and legatees under the will having fully prepared for the trial of the caveat were begun negotiations for the settlement of the caveat, if the caveat were successful one half of the estate, real and personal under the distribution and inheritance laws of the State would go to the caveat and the other one half would go to Mrs. Catharine Goode. So that none of the residuary devisees and particularly none of the infants would receive anything from the estate. After a very full examination of the facts on the part of the devisees and their counsel, Messrs Gans & Haman, it was concluded that the outcome of the caveat litigation was very uncertain and they therefore determined that it was greatly for the interest of all the devisees and legatees under the will to bring the caveat proceedings to a conclusion by a reasonable