his brother Henry,and six of whom are children of his brother Richard. The original bill in this case was filed by his widow,Lizzie R.Hagan,(erroneously called Lizzie R.McHagan) against all of said nephews and nieces for the purpose of obtaining a judicial construction of the will of said decedent. An answer was filed by the five nephews and nieces,children of decedent's brother Henry,in which they neither admitted nor denied the allegations of the bill of complaint. Separate answers were also filed by four of the nephews and nieces,children of decedent's brother Richard,in which they severally admitted "the allegations contained in the petition filed in the above cause for the construction of the will of Charles Mc.Hagan",and consented "to the passage of such decree in said case as may be consistent with the law".

The other two nieces,children of decedent's brother Richard,having failed to answer,a decree pro confesso was passed against them on the 8th day of August,1925,and on the 20th day of November,1925,a decree was passed by this Court by which it was decreed that by the true construction of said will,Lizzie R.Hagan,(erroneously called Lizzie R.Mc.Hagan) "is entitled to the absolute fee simple ownership of the dwelling house located on West Fourth Street,mentioned in the bill of complaint," etc.

The widow,Lizzie R.Hagan,departed this life testate in the month of April,1928,without having disposed of said property during her lifetime,but by the provisions of her will made disposition of her estate in a manner differing from that in which the property devised by her husband would pass if his will should be construed to give his widow but a life estate in his property. On May 22,1928,saied eleven nephews and nieces of Charles Mc.Hagan filed their petition in the cause praying for a writ in injunction to restrain the executors of the will of Mrs.Hagan from selling or disposing of the property and estate of which the husband died seized and possessed; that the Decree of November 20,1925 be vacated and annulled and thahat the will of Charles Mc.Hagan,deceased,be construed,and for general relief.

The petition,among other things,alleges that the paper in the case have been lost or destroyed; that they have never been recorded as required by law; that Sadie Lewis,one of the nieces,was never summoned; that some of the answers were not acknowledged as required by the ruled of the Court; that the nephews and nieces who did answer were under the impression and were so informed,that the paper they signed was to permit their aunt to negotiate a loan to be secured by a mortgage upon the real estate devised to her by her husband; that the widow, as executrix of the will of her husband,was not made a party to the cause; that said nephews and nieces never knowingly or intentionally signed an answer consenting to the construction of the will of their said uncle,Charles Mc.Hagan; that under the will of said Charles Mc. Hagan said property now passes to his nephewa and nieces; and that the decree heretofore passed in the cause is not in accord with the will of said Charles Mc.Hagan,and if given full force and effect defeats the intention of said testator as expressed in his will.

A hearing was had upon the petition,testimony taken and argument made by counsel for the respective parties in interest.

It appears that after the petition was filed the original papers in the case were found and were produced in Court at the hearing.

Several of the nephews and nieces were present and testified,and ther can be no doubt that the nine who filed answers in the case actually signed the answers,and that the answers filed are the answers of said nine nephews and nieces. I do not find from the evidence that there were any such misrepresentation made to those who answered as entitles them to any relief.

It may well be and doubtless was true that Mrs.Hagan's desire to obtain a loan to be secured by a mortgage on the property furnished the immediate occasion for the filing of the original bill to obtain a judicial construction or Mr. Hagan's will. But as I have stated,there was no such misrepresentation for the purpose for which the bill was actually filed as to avoid the legal effect of the answers or to entitle those who did answer to any relief.