

Williams v Hensman [1861]

Evidence

A mother made a will and left a material fund for her eight children that was going to be given to them after her death. Three of those children were underage at the time when the fund was created. However, it was commonly agreed to manage the fund as it was offered.

At some point, one child took the whole sum in advance. The rest of the children promised to refrain from demands for the deficit refund from their guardian. They have released the guardian from the claims for the damage to their interests and other expenditures that resulted from this advanced payment.

Problematics

What form of joint ownership did the children have over the fund? Were the beneficiaries of the collaborated fund the tenants? Can the joint tenancy be stopped by the tenants' actions? Was the ownership stopped by their deeds?

Resolution

The bequeathal created joint ownership among the beneficiaries. It was stopped by the beneficiaries' actions. There were three ways to stop the joint co-ownership.

1. Actions of one person directed into his or her share.
2. The break-off according to the mutual agreement.
3. When the circumstances show that the interests of all parties should be seen as joint ownership.

In the Williams v Hensman case, the parties have agreed to rank their interests as the joint tenancy and, herein, the joint tenancy was stopped according to the third way to stop the joint co-ownership.

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