



CHAPTER 99

An Act respecting the estate of Dame A. C. Aubert
de Gaspé, widow of G. R. S. de Beaujeu

[Assented to, the 29th of April, 1941]

WHEREAS Henry de G. Domville, Charles de L. Preamble.

Domville and Anne de B. Domville, wife separate as to property of Luciano Marsia, all three of the city and district of Montreal; and Jacques Certain de Beaujeu, of the town of Briançon in the *département des Hautes-Alpes*, France, all of them grandchildren of Raoul de Beaujeu and in their capacity as great-grandchildren substitutes in the substitution created in their favour by the will governing the said estate of Dame A. C. Aubert de Gaspé, widow of Georges René Saveuse de Beaujeu, with the consent expressly obtained of all the heirs, usufructuaries, children now living of Raoul de Beaujeu, not to oppose this act, have, by their petition, represented:

1. That they comprise all the grandchildren of Raoul de Beaujeu, son of the testatrix, great-grandchildren of the late Dame Adelaide C. Aubert de Gaspé, widow of the Honourable Georges René Saveuse de Beaujeu, in his lifetime of the city and district of Montreal, who died at Montreal on the 30th of March, 1895, all acting in their capacity of legatees named by the will made before Pierre Chrysologue Lacasse and colleague, notaries for the Province of Quebec, on the 5th of June, 1894, under the number 606 of his minutes;

2. That the moveable and immoveable property of the estate, with the exception of certain moveable property excluded by clause 11 of the said will, was left by the testatrix to be held and administered by her testamentary executors, according to the terms of her will;

3. That the property of the estate has now been held for forty-six years by the testamentary executors who are charged to pay the revenue thereof to the usufructuary legatees, being the grandchildren, during their lifetime, and finally to distribute the capital amongst the universal legatees, according to the provisions of the will of the testatrix;

4. That, amongst other legacies which have all now been discharged, the testatrix made the following bequests:

a. Under clauses 31 and 35 of her will: to her son Quiqueran de Beaujeu and to the son of the latter, property in usufruct during their lifetime and in ownership to the descendant of the latter, now completely liquidated by the opening of the succession in that branch;

b. Under clauses 33 and 35: to her daughter, Marie de Beaujeu, widow of Kersabiec, of St. Étienne de Monluc, France (de Kersabiec branch of the heirs) and to the latter's children, property in usufruct, substituted as to capital in favour of their children, great-grandchildren of the testatrix, according to the terms of her will;

c. Under clauses 32 and 35: to the children of her son, the late Raoul de Beaujeu (Raoul de Beaujeu branch of the heirs) in usufruct during their lifetime, property, the ownership of which be vested in her great-grandchildren according to the terms of the afore-cited will; and, under clause 47, which concerns this branch only, an accumulation, capitalized, of the usufruct, from the time of her death until the last of the grandchildren (Jean de Beaujeu) is 35 years of age, which occurred on January 23rd, 1917, the use and usufruct of which capital, from and after such date, is bequeathed to the grandchildren of that branch and the capital itself to the great-grandchildren of that branch according to her will;

5. That by clauses 32 and 33 of her will the testatrix of this succession bequeathed to each of the two branches respectively—the heirs of Raoul de Beaujeu and the de Kersabiec heirs—a great number of assets, described in the will, which are left to them specifically and must therefore be administered separately;

6. That by clause 35 of the will the testatrix bequeathed fixed sums, to wit: to the Kersabiec branch \$18,390.00, to the Raoul de Beaujeu branch \$23,610.00, and other sums to be divided equally resulting from

“the sale, by mutual agreement or at auction, of the property of the testatrix, both moveable and immoveable, left at her death and not specifically bequeathed under her will”; and that such properties must belong specially and specifically to the branches designated in the said clause 35;

7. That, by clause 47, another source of capital was created by the accumulation of the revenues of the usufructuary legatees of the Raoul de Beaujeu branch during twenty-one years and 297 days from the 30th of March, 1895, to the 23rd of January, 1917, which by its nature was to belong separately and specifically to the Raoul de Beaujeu branch of the heirs;

8. That such assets were not kept specifically separated in the management thereof nor accounted for separately;

9. That it is important that the shares of each of the two branches of this estate in the assets and liabilities be separated and administered separately;

10. That the testamentary executors and administrators of this estate, for the above-mentioned reasons, should be replaced, in so far as the Raoul de Beaujeu branch is concerned, by other testamentary executors and administrators charged with administering that share of the estate under the authority of the will of the testatrix, and under the control of the heirs in the Raoul de Beaujeu branch, and, as far and as quickly as possible, to put an end to the indivision which exists between the two branches: the Raoul de Beaujeu heirs and the de Kersabiec heirs;

11. That it is advisable that the present act be passed; and

Whereas, for the said reasons, it is expedient to grant the prayer of the petitioners;

Therefore, His Majesty, with the advice and consent of the Legislative Council and of the Legislative Assembly of Quebec, enacts as follows:

1. The testamentary executors and administrators appointed under the will of Dame A. C. A. de Gaspé, widow of the Honourable Georges René Saveuse de Beaujeu, made before Pierre Chrysologue Lacasse and his colleague, notaries, on the 5th of June, 1894, in virtue of clause 52 of the said will, shall, notwithstanding clause 55 of the said will, for all legal purposes and for the purposes of such will, as regards the succession transmitted to the Raoul de Beaujeu branch, be the

Replacement
of executors,
for the Raoul
de Beaujeu
branch.

three persons appointed in such capacity by the majority of the family council composed of the descendants of the said Raoul de Beaujeu, their nearest relatives or friends, upon the summons of one of the said descendants of Raoul de Beaujeu, legatee, whether institutes or substitutes.

Vacancies:
how filled.

2. The appointment of the testamentary executors and administrators for the aforesaid Raoul de Beaujeu branch, notwithstanding clause 55 of the said will, to replace hereafter those first appointed, shall be made by the same method of appointment, save in the case where only one resigning or incapacitated testamentary executor and administrator has to be replaced in which case the appointment shall be made pursuant to the provisions of clause 55.

Family
council may
replace exe-
cutors, etc.

The majority of the family council of the said Raoul de Beaujeu branch shall also have full power to put an end, at any time, to the mandate of the said testamentary executors and administrators, to replace them or to substitute for them an incorporated trust company or administration, doing business in the district of Montreal, and they or it shall have the same powers as the three executors and administrators provided for by the said will.

Further
powers of
family
council.

The said majority of the family council may also terminate such mandate if it deem it expedient. It shall also fix the indemnity and remuneration of the qualified persons so appointed.

Respon-
sibility of
present
executors,
etc.

3. The present testamentary executors and administrators and their predecessors shall be discharged for the period prior to the 30th of March, 1922, for which they shall not have to render account. The testamentary executors and administrators of the estate of the said Dame A.C. A. de Gaspé, widow of the Honourable Georges René Saveuse de Beaujeu, in office on and since the 30th of March, 1922, only, shall be and remain responsible to the heirs of the Raoul de Beaujeu branch for the performance of their duties and functions since the 30th of March, 1922, for the respective periods during which they held such duties and functions up to the date upon which the transfer of the assets devolving for administration for the said branch shall have been made into the hands of the new testamentary executors and administrators thereof. Such transfer of the said portion of the assets of the estate shall take place within

Transfer of
assets to new
executors,
etc.

the delay of sixty days from the coming into force of this act or, after such delay, forthwith after the appointment of the new testamentary executors and administrators.

However, such transfer of the property to the Raoul de Beaujeu branch shall not be interpreted as a discharge from the responsibilities attached to their office of testamentary executors and administrators. Transfer not to constitute discharge from responsibilities. The rendering of account by the testamentary executors and administrators who are replaced shall be made within the delay of six months from the coming into force of this act or, after such delay, forthwith after the appointment of the new testamentary executors and administrators, and in the manner and form and subject to the recourse provided by law, and without altering the extent of liability prescribed by the will. Rendering of account. The rendering of account shall be made to The Royal Trust Company and, if such company fail to act, to a trust company appointed, by notarial deed, by the executors for both the Raoul de Beaujeu and the de Kersabiec branches, and, failing agreement between them, appointed, on a mere petition, by a judge of the Superior Court in Montreal. Such trust company shall be authorized to transact, to contest the rendering of account before a court of competent jurisdiction and, failing contestation by the said trust company, to grant to the executors, without other intervention, a valid, definite, full and final discharge in the name of all the heirs, institutes and substitutes, even eventual and future, of the Raoul de Beaujeu branch.

The aforesaid delays of sixty days and of six months may be extended for just cause upon a mere petition presented to a judge of the Superior Court of the district of Montreal. Extension of delays. The delay for contesting accounts shall be six months.

For the period subsequent to the 30th March, 1922, Former executors, etc. this act shall not alter the rights and the obligations of the predecessors of the present testamentary executors and administrators under the will of the said Dame A. C. A. de Gaspé, widow of the Honourable Georges René Saveuse de Beaujeu; their rendering of account, however, shall be made within the delays hereinabove provided.

4. The property bequeathed (assets and liabilities) by the said testatrix, which shall constitute the subject What property to be transferred.

of the transfer and of the administration of the testamentary executors and administrators of the persons appointed under this act for the Raoul de Beaujeu branch, shall be the following:

Description.

The property bequeathed to or vested in the children of Raoul de Beaujeu and their descendants, specifically belonging to that branch; the share of the property belonging to the children, descendants of Raoul de Beaujeu, and now held in indivision between them and the de Kersabiec heirs.

Administration of undivided property.

From the date of the transfer of the aforesaid undivided share and until the indivision ceases, with respect to the immoveables, the administration of the said immoveables belonging in indivision to the said two branches shall be confided to The Royal Trust Company.

How indivision may be ended.

5. The testamentary executors and administrators representing respectively the Raoul de Beaujeu heirs and the de Kersabiec heirs may, by amicable arrangement or by licitation, terminate the indivision of the property belonging to the children and descendants of Raoul de Beaujeu undividedly with the de Kersabiec heirs.

Division of records.

6. After the delays above contemplated for the rendering of account, the books of account, vouchers, correspondence and all other writings of the estate of the testatrix respecting the property of each of the aforesaid two branches shall be delivered to the testamentary executors and administrators of the two branches respectively charged with administering the same. All documents and writings of the said estate, which cannot be divided shall remain deposited with the present testamentary executors and administrators where the parties may consult, take cognizance of or copy them, the whole without cost.

Access to records.

After the delays provided for the transfer of the property, the books of account, vouchers, correspondence and all other writings of the estate of the testatrix respecting the property to be transferred shall be accessible for the same purposes and on the same conditions to the testamentary executors and administrators representing the Raoul de Beaujeu branch and to the representatives of The Royal Trust Company.

Costs of this act.

7. The costs of this act, including the costs of the present testamentary executors and administrators,

shall be borne by and paid out of the mass of the estate as at present constituted of Dame A. C. A. de Gaspé, widow of the Honourable Georges René Saveuse de Beaujeu.

8. Notwithstanding the provisions of the will, no forfeiture shall be incurred by any legatee whomsoever through the introducing of this act, the proceedings necessary thereto or the taking of steps or proceedings for carrying it out. No forfeiture incurred.

9. This act shall come into force on the day of its sanction. Coming into force.

