



CHAPTER 168

An Act respecting the donation in trust by Théodore Alexandre Grothé

[Assented to, the 2nd of May, 1935]

WHEREAS the Honourable Raoul Ovide Grothé, mem- Preamble.
ber of the Legislative Council of the Province of Quebec, manufacturer, of the city of Westmount, and Albert Armand Grothé, manufacturer, of the city of Outremont, herein acting in their capacity of donees in trust of Théodore Alexandre Grothé, merchant-jeweler, in his lifetime of the city of Montreal, under a donation in trust made by the latter before C. E. Leclerc, notary, at Montreal on the 24th of April, 1912, registered in the registry office of Montreal East on the 5th of June, 1912, under No. 86360; of Jean Louis Colbert Grothé, civil employee; Dame Jeanne Grothé, widow of the late Antonio Tarte, civil employee; Dame Marie Aimée Grothé, wife contractually separate as to property of Doris Farmer, manufacturer, and the said Doris Farmer to authorize his wife for the purposes hereof, and Eugène Guildor Grothé, clerk, all of the city of Montreal, the said Jean Louis Colbert Grothé, Jeanne Grothé, Marie Aimée Grothé and Eugène Guildor Grothé, being the four children, issue of the marriage of the late Colbert Onésime Grothé with the late Dame Eugénie Tourville, herein acting as well personally as in their capacity of usufructuaries and institutes under the above-mentioned donation, have, by their petition, represented:

That, by the terms of the deed of donation entered into before C. E. Leclerc, on the 24th of April, 1912, registered in Montreal East on the 5th of June, 1912, under No. 86360, Théodore Alexandre Grothé, in accordance with the provisions of the law in regard to trusts, articles 981a

and following, of the Civil Code of Lower Canada, gave and transferred to Raoul Ovide Grothé and Félix Avila Grothé, accepting as trustees for themselves and their successors, the following immoveables, to wit:

1. Two building sites consisting of lots Nos. 13-3, 14-46-4, 14-47-4, 14-48-6 and 7 of St. Lawrence ward, in the city of Montreal, with the buildings bearing Nos. 93, 95, 97 and 99, Arcade street:

2. Two building sites consisting of lots Nos. 16a-8 and 9 of the said St. Lawrence ward, with buildings thereon erected, bearing Nos. 69, 71, 73 and 75, Arcade street;

3. Two building sites consisting of lots Nos. 16a-10 and 11 of the said St. Lawrence ward, with the buildings thereon erected, bearing Nos. 77, 79, 81 and 83, Arcade street;

4. Two building sites consisting of lots Nos. 16a-12 and 14-48-5, of the said St. Lawrence ward, with the buildings thereon erected, bearing Nos. 85, 87, 89 and 91, Arcade street;

That the said trustees had immediate seizin and possession of such immoveables, as depositaries and administrators, for the benefit of the nephews and nieces of the said Théodore Alexandre Grothé, issue of the marriage of his brother, Colbert Onésime Grothé, with the late Dame Eugénie Tourville, namely: Jean Louis Colbert Grothé, Jeanne Grothé, Marie Aimée Grothé and Eugène Guildor Grothé, in usufruct for their lifetime, and in ownership to their respective children or descendants; that such trust is to last as long as it shall not have fully achieved its object, and, in the event of the refusal to accept, the death or any other cause of vacancy on the part of a trustee, the trustee in office was to have the right to appoint a new trustee by notarial deed; that these four lots of immoveables, above described, were attributed, each lot respectively, to Jean Louis Colbert Grothé, Jeanne Grothé, Marie Aimée Grothé and Eugène Guildor Grothé in enjoyment and usufruct for their respective lifetime, and in full and absolute ownership to the children and grandchildren whom each may respectively leave at his or her death, with accretion of usufruct to the brothers and sisters, and of ownership to their children, in the event of one of the usufructuaries dying without children, and in full ownership to the children of Jean Marie Grothé, in the event of all the persons previously benefited dying without children; that such property was declared unseizable in principal, interest and revenue, for any debt whatsoever of the said beneficiaries, and with prohibition to the latter to alienate their revenues, under pain of nullity of such alienation;

that the trustees received the right to sell the said immoveables without the consent of any one, to the best of their judgment, and to make new investments for the purposes of the trust, but that the deed of donation makes no mention of the right to borrow and hypothecate;

That the trustee Félix Avila Grothé died in Montreal on the 9th of February, 1930, and, as authorized by the deed of donation, the trustee in office, Raoul Ovide Grothé, appointed Albert Armand Grothé, trustee, to replace the deceased trustee, by notarial deed, passed before René Faribault, notary, on the 30th of July, 1930, registered on the 21st of August, 1930, under No. 254762;

That, using the discretion granted to them by the said deed of donation, the trustees, by four deeds of sale, made before P. A. Lamoureux, notary, on the 28th of February, 1924, registered respectively on the 4th, 6th and 13th of March, 1924, under Nos. 43162, 43350, 43351 and 44068, sold to Isaac Kauffman the four immoveables which were the object of the donation of the 24th of April, 1912, for the price of ten thousand dollars each; that they employed the proceeds of these four sales in acquiring in replacements from Colbert Grothé, under four deeds of sale all four passed before René Faribault notary, on the 3rd of December, 1924, and all four registered on the 9th of December, 1924, in the registry office of Montreal, under Nos. 67160, 67161, 67162 and 67163, the following four immoveables:

1. A building site consisting of lots Nos. 45-6-1, 45-5 and 45-4-2 of the plan and book of reference of St. Lawrence ward, in the city of Montreal, with buildings thereon erected, bearing civic No. 311 of Hutchison street, purchased as a reinvestment of the price of sale of the two building sites, consisting of lots Nos. 13-3, 14-46-4, 14-47-4 and 14-48-6 and 7 of the said St. Lawrence ward, with buildings thereon erected, bearing civic Nos. 93, 95, 97 and 99 of Arcade street;

2. A building site consisting of lots Nos. 45-9 and 45-8-2 of the said St. Lawrence ward, with buildings thereon erected, bearing civic No. 305 of Hutchison street, purchased as a reinvestment of the price of sale of the two building sites consisting of lots Nos. 16a-8 and 9, of the said St. Lawrence ward, with buildings thereon erected, bearing civic lots Nos. 69, 71, 73 and 75 of Arcade street;

3. A building site consisting of lots Nos. 45-8-1 and 45-7-2 of the said St. Lawrence ward, with buildings thereon erected, bearing civic No. 307 of Hutchison street, pur-

chased as reinvestment of the price of sale of the two building sites of lots Nos. 16a-10 and 11 of the said St. Lawrence ward, with buildings thereon erected, bearing civic Nos. 77, 79, 81 and 83 of Arcade street;

4. A building site consisting of lots Nos. 45-7-1 and 45-6-2 of the said St. Lawrence ward, with the buildings thereon erected, bearing No. 309 of Hutchison street, purchased as a reinvestment of the price of sale of the two building sites, consisting of lots Nos. 16a-12 and 14-48-5 of the said St. Lawrence ward, with buildings thereon erected, bearing civic Nos. 85, 87, 89 and 91 of Arcade street;

That each of such four immoveables was purchased by the trustees for a certain sum, in cash, and subject to the trustees paying The Canada Life Assurance Company a first hypothec of twelve thousand five hundred dollars on each of the four building sites, and to Félix Avila Grothé, a second hypothec of about four thousand seven hundred dollars on each of the four building sites;

That all these hypothecs for a total sum of sixty-eight thousand seven hundred and four dollars and eighty-seven cents have been reduced during the administration by the trustees to a lump sum of thirty-seven thousand dollars, as far as The Canada Life Assurance Company is concerned, and to the lump sum of twelve thousand four hundred and fifty dollars, as far as the estate Arthémise David, widow of Louis Ovide Grothé, transferee of the claim of Félix Avila Grothé, is concerned;

That, by reason of the financial depression prevailing in the real estate field in Montreal, the revenues from these immoveables have diminished to the extent that arrears of taxes have accumulated on them, and it has become impossible to provide substantially for the hypothecs affecting these immoveables, according to the terms under which such hypothecs were assumed;

That it is expedient to confirm the purchases made as reinvestments by the trustees, and to grant expressly to the trustees the right to borrow, and, as guarantee for the loans, to hypothecate the immoveables whereof they have seizin and administration, in order that in the interest of the mass they may replace the existing hypothecs by other loans under conditions more in conformity with the present financial situation of the trust, and prevent the immoveables being sold by order of the Court; and

Whereas it is expedient to grant the prayer contained in the said petition;

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

1. The building site fronting on Hutchison street, in the city of Montreal, containing thirty feet in width, by a depth of ninety feet and six inches, English measure and more or less, with the buildings thereon erected bearing No. 3735 (former No. 305) of the said Hutchison street, and consisting of lot No. nine of the subdivision of lot No. forty-five (45-9) on the official plan and book of reference of the St. Lawrence ward of the city of Montreal, and of lot No. two of the subdivision of lot No. eight of the subdivision of lot No. forty-five (45-8-2) of the said official plan and book of reference, with all rights of passage, common wall, and the active and passive servitudes, mentioned in the deed of sale made by Colbert Grothé to Raoul Ovide Grothé and Félix Avila Grothé, in their capacity of donees in trust of Théodore Alexandre Grothé, before René Faribault, notary, on the 3rd of December, 1924, and registered on the 9th of December, 1924, under No. 67160, is declared to have been validly purchased, under the aforesaid deed, by the trustees of Théodore Alexandre Grothé, under the terms of a donation in trust made by the latter, before C. E. Leclerc, notary, on the 24th of April, 1912, and registered on the 5th of June, 1912, under the No. 86360; such acquisition being as reinvestment of the price of sale of the immoveables belonging, under the trust established by the said deed of donation in enjoyment and usufruct to Jeanne Grothé, and in full and absolute ownership to the children and grandchildren whom the said Jeanne Grothé may leave at her death, subject to the clauses of the said donation in trust in the event of the death of one or of all the beneficiaries with or without children.

2. The building site fronting on Hutchison street, in the city of Montreal, containing thirty feet in width, by a depth of ninety feet and six inches, English measure and more or less, with the buildings thereon erected bearing No. 3737 (former No. 307) of the said Hutchison street, and consisting of lot No. one of the subdivision of lot No. eight of the subdivision of lot No. forty-five (45-8-1) on the official plan and book of reference of St. Lawrence ward of the city of Montreal, and of lot No. two of the subdivision of lot No. seven of the subdivision of lot No. forty-five, (45-7-2) of the said official plan and book of reference, with all rights of passage, common wall, and the active and

passive servitudes, mentioned in the deed of sale made by Colbert Grothé to Raoul Ovide Grothé and Félix Avila Grothé, in their capacity of donees in trust of Théodore Alexandre Grothé, before René Faribault, notary, on the 3rd of December, 1924, and registered on the 9th of December, 1924, under No. 67161, is declared to have been validly purchased, under the aforesaid deed, by the trustees of Théodore Alexandre Grothé, under the terms of a donation in trust made by the latter, before C. E. Leclerc, notary, at Montreal, on the 24th of April, 1912, and registered on the 5th of June, 1912, under the No. 86360; such acquisition being as reinvestment of the price of sale of the immoveables belonging, under the trust established by the said deed of donation in enjoyment and usufruct to Marie Aimée Grothé, and in full and absolute ownership to the children and grandchildren whom the said Marie Aimée Grothé may leave at her death, subject to the clauses of the said donation in trust in the event of the death of one or of all the beneficiaries with or without children.

Validating
of certain
purchase by
donees in
trust.

3. The building site fronting on Hutchison street, in the city of Montreal, containing thirty feet in width, by a depth of ninety feet and six inches, English measure and more or less, with the buildings thereon erected bearing No. 3739 (former No. 309) of the said Hutchison street, and consisting of lot No. one of the subdivision of lot No. seven of the subdivision of lot No. forty-five (45-7-1) on the official plan and book of reference of St. Lawrence ward of the city of Montreal, and of lot No. two of the subdivision of lot No. six of the subdivision of lot No. forty-five (45-6-2) of the said official plan and book of reference, with all rights of passage, common wall, and the active and passive servitudes, mentioned in the deed of sale made by Colbert Grothé to Raoul Ovide Grothé and Félix Avila Grothé, in their capacity of donees in trust of Théodore Alexandre Grothé, before René Faribault, notary, on the 3rd of December, 1924, and registered on the 9th of December, 1924, under No. 67162, is declared to have been validly purchased, under the aforesaid deed, by the trustees of Théodore Alexandre Grothé, under the terms of a donation in trust made by the latter, before C. E. Leclerc, notary, at Montreal, on the 24th of April, 1912, and registered on the 5th of June, 1912, under the No. 86360; such acquisition being as reinvestment of the price of sale of the immoveables belonging, under the trust established by the said deed of donation in enjoyment and usufruct to Eugène Guildor Grothé, and in full and ab-

solute ownership to the children and grandchildren whom the said Eugène Guildor Grothé may leave at his death, subject to the clauses of the said donation in trust in the event of the death of one or of all the beneficiaries with or without children.

4. The building site fronting on Hutchison street, in the city of Montreal, containing thirty feet in width, by a depth of ninety feet and six inches, English measure and more or less, with the buildings thereon erected bearing No. 3741 (former No. 311) of the said Hutchison street, and consisting of lot No. one of the subdivision of lot No. six of the subdivision of lot No. forty-five (45-6-1) on the official plan and book of reference of St. Lawrence ward of the city of Montreal, of lot No. five of the subdivision of lot No. forty-five (45-5) of the said official plan and book of reference, and of lot No. two of the subdivision of lot No. four of the subdivision of lot No. forty-five (45-4-2) of the said official plan and book of reference, with all rights of passage, common wall, and the active and passive servitudes, mentioned in the deed of sale made by Colbert Grothé to Raoul Ovide Grothé and Félix Avila Grothé, in their capacity of donees in trust of Théodore Alexandre Grothé, before René Faribault, notary, on the 3rd of December, 1924, and registered on the 9th of December, 1924, under No. 67163, is declared to have been validly purchased, under the aforesaid deed, by the trustees of Théodore Alexandre Grothé, under the terms of a donation in trust made by the latter, before C. E. Leclerc, notary, at Montreal, on the 24th of April, 1912, and registered on the 5th of June, 1912, under the No. 86360; such acquisition being as reinvestment of the price of the immoveables belonging, under the trust established by the said deed of donation in enjoyment and usufruct to Jean Louis Colbert Grothé, and in full and absolute ownership to the children and grandchildren whom the said Jean Louis Colbert Grothé may leave at his death, subject to the clauses of the said donation in trust in the event of the death of one or of all the beneficiaries with or without children.

5. The donees in trust may borrow from time to time, according to the needs of the trust, for the renewal or the replacement of mortgages, in capital, interest and incidentals, the payment of taxes, the cost of improvements and maintenance, as well as the costs of this act, and, as security for such loans, hypothecate in whole or in part the aforesaid immoveables known as lots Nos. 45-4-2, 45-5,

45-6-1, 45-6-2, 45-7-1, 45-7-2, 45-8-1, 45-8-2 and 45-9 on the official plan and book of reference of St. Lawrence ward in the city of Montreal, with buildings thereon erected and dependencies, as well as all other immoveables which they may hereafter hold in trust, until the property held under the terms of the aforesaid donation in trust from Théodore Alexandre Grothé has been handed over in full and absolute ownership to those entitled thereto, in execution of the said trust, and they may also pledge the revenue of such immoveables as security for such loans, by transfer or otherwise, notwithstanding the clauses of non-seizability and the prohibition to alienate in the said donation in trust.

Costs of
act.

6. The donees in trust of the said Théodore Alexandre Grothé are authorized to charge to principal the costs occasioned by this act.

Coming into
force.

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