



CHAPTER 135

An Act respecting the estate of Alexandre Aubertin

[Assented to, the 1st of April, 1927]

WHEREAS Albert Aubertin, merchant, of the city of Montreal, has, by his petition, represented:

That on the 2nd of November, 1916, Alexandre Aubertin, gentleman, of the city of Montreal, made his will before Mtre. Jos. A. Brunet, by which he bequeathed, amongst other things, the enjoyment and usufruct of all his moveable and immoveable property to Joseph, Albert, Paul and Raoul Aubertin, his four sons, whom he instituted his universal legatees in enjoyment and usufruct during their lifetime, on the security of their oath and without being bound to make an inventory, by equal shares and portions, namely, one-quarter to each of them;

That he gave and bequeathed the ownership of his property to the children of his four sons to be divided by roots according to the usual order in successions; the partition to be made only after the death of the last of his legatees in enjoyment above mentioned;

That in the event of any of the said legatees of the enjoyment and usufruct dying without issue, or, if having any, such child or children die as minors without issue, his share in the estate would accrue to his surviving brothers, and in the event of the predecease of any of them, to the children of the latter, to the exclusion of all others, to be divided between his surviving brothers or the children of any of his surviving brothers who has died, by roots and according to the order of successions;

That he, however, gave the right to any of his children who died without issue, to bequeath by will to his wife for her lifetime, while she remained a widow, the property bequeathed to him in enjoyment;

That the properties so bequeathed were declared not

subject to seizure and given as aliments and alimentary rent, without, however, preventing the children of the testator from selling, hypothecating or otherwise alienating their share in the property of the estate;

That Joseph Aubertin, one of the legatees of the enjoyment and usufruct, was appointed testamentary executor with powers beyond a year and a day, and the right to sell, exchange, or otherwise alienate the moveable and immoveable property of the estate, without judicial formality and subject to the prices, charges, clauses and conditions which he may deem most advantageous in the interest of the estate, the prices of such sales or other alienations to be loaned and invested according to Chapter Fourth (B) of the Civil Code respecting the investment of the property of others (Articles 981*o*, 981*p*, 981*q*, and 981*r*); and the said testator further authorized his testamentary executor also to utilize the prices of such sales or other alienations to acquire other immoveable properties without having recourse to any judicial formality, specially giving him the same discretionary power to resell such properties and to acquire others, successively and until the final partition of the property of the estate;

That he also permitted his testamentary executor to collect wholly or in part the price or prices of sale of such properties and to give good and valid discharges therefor, so that the purchasers be in nowise bound to see to the investment of such price of sale;

That the testator ordered that his testamentary executor be bound to render an account of his administration at least once a year, and that the taxes on his estate be taken and paid out of the capital of the estate;

That the properties belonging to the estate consist chiefly of unbuilt lots yielding but little revenue, but situated in a section of the city of Montreal, wherein, if houses were built, suitable revenues might be derived therefrom;

That the taxes and charges on such properties greatly exceed the present revenues therefrom;

That the testator died on the 28th day of October, 1924, and that the revenues from the properties of the estate have not hitherto sufficed to pay the charges and taxes on the properties thereof and that there is now a large sum due for real estate assessments;

That it is expedient that a loan be effected to pay off the debts of the estate in arrears and to build revenue-yielding houses on a portion of the property;

That with the revenues to be collected, the annual charges of the estate can be paid; 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. Any provision in the will to the contrary notwithstanding, the testamentary executor of the estate of Alexandre Aubertin is authorized to borrow, with the consent of the curator to the substitution, a sum of forty-five thousand dollars to pay the arrears of taxes due by the estate and the debts contracted for it, and, with the surplus, repair the immoveables of the estate and defray the cost of the construction of houses for revenue to be erected on the property of the estate, for the benefit of the legatees in enjoyment and of the legatees in ownership of the property of the said estate.

2. The costs of this act shall be paid by the estate. Costs.

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