

CHAP. 142

An Act respecting the estate of the late Ebenezer Muir, to more clearly define and interpret his will and the powers of the executors and trustees

[Assented to 28th February, 1907]

WHEREAS Ebenezer Muir of the city of Montreal, secretary, Herbert Barelay Muir of Montreal, gentleman, and Edmund A. Robert of Montreal, manager, in their capacity of executors and trustees of the late Ebenezer Muir in his lifetime of the city of Montreal, deceased, duly appointed by a judgment of the Superior Court for the district of Montreal, on the ninth day of October, 1906, to replace the original executors and trustees named in the said Ebenezer Muir's will, which will was made before James Smith and colleague, notaries, at the said city of Montreal, on the twenty-third day of May, in the year of Our Lord, one thousand eight hundred and fifty-seven, have, by petition, represented :

That the said late Ebenezer Muir by his said will appointed certain trustees whom he also named executors of his said will, to whom he left the whole residue of his estate, after devising certain small specific legacies, in trust to reduce the same into their possession without delay, and after the payment of all necessary expenses to distribute the revenue according to the terms of said will, between his widow and his children, or their representatives, until the youngest of his grandchildren should have attained the age of majority, when the whole of the immoveable part of his estate should then be sold, and as soon as his estate was converted into cash, the same should be divided between the said children who might be then alive, or their lawful issue representing them, share and share alike, *par souche*, in the order in which successions are divided in this country :

That by judgment of the Superior Court for the district of Montreal of the ninth of October, 1906, the petitioners were appointed executors and trustees to replace the original trustees and executors named in the said will, who were then deceased, with all the powers, authority and privileges given said original trustees and executors by said will and by law ;

That doubts have arisen as to the interpretation to be placed upon the wording of said will, in regard to the intention of said testator as to the identity of the youngest grandchild, at the attainment of whose majority the immoveable property of his succession should be sold and his entire estate divided ;

That it was the intention of said testator that his children, the issue of his marriage with the late Jane Steele his wife, should share in the distribution of the division of his estate ;

That the youngest existing grandchild of the said testator has become and been of the full age of majority for more than ten years ;

That the only surviving children of the said testator are the petitioner, Ebenezer Muir, who is now of the age of seventy-four years, and his sister, Dame Quintina Muir, widow of the late James Foley, who is of the age of seventy-two years ;

That it is evident that all the grandchildren comprised in said will have been born and are now of full age of majority :

And whereas the petitioners have prayed for the passing of an act declaring that the period fixed by said will for the sale of the immoveable portion of the testator's estate, and the final division of his said estate arrived on the twenty-sixth day of April, eighteen hundred and ninety-six, when Stuart Dudley Muir, the son of the petitioner Ebenezer Muir, who is the youngest existing grandchild of said testator, became of the age of majority, and to more clearly define the powers of the petitioners as such trustees and executors as to their authority to sell, to convert the entire estate into cash, and to divide said estate, and distribute and pay over the same to the several heirs and legatees according to the terms of said will ;

And whereas it is expedient to grant the prayer of 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 :

The period fixed by the will of Ebenezer Muir for final division of his estate, &c., declared to have arrived, and executors authorized to sell immoveables, &c.

1. It is hereby declared and enacted that the period fixed by the will of said late Ebenezer Muir for the sale of the immoveable portion of his estate and the final division of said estate, arrived on the twenty-sixth day of April, eighteen hundred and ninety-six, when Stuart Dudley Muir, son of the petitioner Ebenezer Muir, who is the youngest existing grandchild of said testator, became of the age of majority, and that the said trustees and executors of the last will and testament of the late Ebenezer Muir, to wit : the said Ebenezer Muir, Herbert Barelay Muir, and Edmund A. Robert and their successors in office are declared to be and are hereby authorized to sell the immoveable property comprised in said estate for such price and upon such terms as to them may seem proper, with the exception of the immoveable known and designated under the number one hundred and five, on the official plan and book of reference for the Centre Ward of the city of Montreal, under the conditions hereunder set forth ; and to receive the purchase price thereof without the purchaser or purchasers being bound to see to the application of such purchase price :

and the said trustees and executors and their successors in office are also hereby authorized to convert the entire estate into cash, and to divide said estate and to distribute and pay over the same to the several heirs and legatees, according to the terms of the said will, with authority to do all acts and execute all deeds necessary to wind up the said estate.

The above described property, No. 105, of the official plan and book of reference for the Centre Ward of the city of Montreal shall not be sold, alienated or hypothecated until a final judgment without appeal be rendered in the cause now pending of Flavien J. Granger and Alphonse Granger, both merchants and booksellers of the city and district of Montreal, and doing business there in partnership under the firm name of Granger Frères, against the said estate, being No. 3499 of the records of the Superior Court of the district of Montreal.

2. The said executors and trustees are authorized to borrow an amount not to exceed twelve thousand dollars, to rebuild the houses belonging to the estate, situated at the corner of the Place d'Armes and Notre-Dame street, and to hypothecate the immoveables of the estate as security for such loan, or to make use of the moneys received in payment for the sale of any property of the said estate, up to that amount.

3. The said trustees and executors shall pay out of said estate the costs, disbursements and counsel fees incurred by the passing of this act.

4. The undertaking of the petitioner, Ebenezer Muir, acting as temporary administrator of the said estate, contained in his letter dated, at Montreal, the 13th July, 1906, to John James Browne & Son, to sell to James Robinson the immovable property of the said estate, bounded by Ste. Monique, Lagauchetière and Inspector streets, in the city of Montreal, is hereby ratified, and the said trustees and testamentary executors and their successors in office are authorized to give full and entire effect to the said undertaking, and to sign and execute a deed of sale of the said immovable to the said James Robinson, at and for the net price of forty thousand dollars, to receive such purchase price and to give a full acquittance for the same, without the said James Robinson being bound to see to the application of such purchase price, the whole to give effect to the letters annexed to this act as schedules A and B.

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

SCHEDULE A

Montreal, July 13th, 1906.

Messrs. John James Browne & Son,
Real Estate Agents, 207 St. James St.,
Montreal.

Gentlemen,

Referring to your offer, on behalf of your client, Ald. James Robinson, of \$40,000.00 net to the estate E. Muir, for the property bounded by Ste. Monique, Lagauchetière and Inspector streets, I have to say, that the estate E. Muir will accept said offer of forty thousand dollars net, without commission, the whole amount to be payable in cash on completion of the deed. Said acceptance of this offer to be subject to the ratification of the heirs or an order from the court. We will also require a direct offer in writing, signed by Ald. Robinson accepting the above conditions. An early reply will oblige.

Yours truly,

(Signed) E. Muir,
Administrator pro-tem estate E. Muir.

SCHEDULE B

July 23rd, 1906.

E. Muir, Esq.,
Estate E. Muir,
City.

Dear Sir,

Referring to offer made by John James Browne & Son on my behalf for the property corner Inspector, Lagauchetière and Ste. Monique streets at the price of \$40,000.00 net to the estate Muir, I now beg to confirm same, and as you require all cash on completion of deed it will be necessary for me to negotiate a loan. As soon as I have obtained same, I will be prepared to pass the deed of sale.

Yours truly,

(Signed) JAS. ROBINSON.