

De Houghton v. De Houghton

[1896] 2 ch.385

STIRLING J. charge all or any part of the said premises hereinbefore devised with the payment of any sum or sums not exceeding in the different events hereinafter specified the different sums herein-after mentioned as and for the portion or portions of his child or children or any one or more exclusively of the other or others of his or her children other than a first or only son entitled under or by virtue of this my will to the first estate of inheritance of the same premises." The testator then enumerated the several sums which were to be payable as portions in various events, the amounts varying according to the number of the children, and he declared that those interests were to be



"vested in and to be payable unto or among such child or children or any one or more exclusively of the other or others of such children at such age or time ages or times in such manner and if more than one in such shares and to be subject to such powers of appointment by the person for the time being exercising this present power or any other person or persons and to such provisions for the maintenance education and advancement of any such child or children at the discretion of any trustees or trustee or otherwise and to such other powers and provisions for the benefit of such child or children or some of them as the person for the time being exercising this present power shall in manner aforesaid direct, and by the same or any other deed or deeds or by will or codicil (but subject and without prejudice as aforesaid) to charge the premises charged with such portion or portions respectively with the payment of any annual sum or sums of money not exceeding what the interest of the sum or sums of money so charged for a portion or portions would amount to after the rate of 4l. per cent. per annum to be applied for or towards the maintenance or education of the child or children for whom the portion or portions charged as aforesaid shall be intended in the meantime until such portion or portions shall become payable the said annual sum or sums of money to be clear of all deductions and to commence from such period or periods and to be raised and paid and applied in such proportions at such times and in such manner as the person for the time being exercising this present portion shall in the manner aforesaid direct."

The testator died on December 2, 1876, so that the trusts for STIRLING J. accumulation under the 500 years' term were still in force. The present baronet, Sir James de Houghton, succeeded to the baronetcy on April 12, 1893, and became entitled, as tenant for life under the will subject to the trusts of the term, to an annuity of 3000l. a year. Sir James de Houghton had, in 1878, married Aimée Jean Grove; by whom he had several children. By an indenture of settlement made in contemplation of such marriage on June 26, 1878, Sir James de Houghton, in pursuance of the powers of jointuring and charging portions contained in the will of Sir Henry de Houghton, appointed to his intended wife for life, in case she should survive him, a yearly rent-charge of 1000l. for her jointure, and in bar of all dower and freebench, payable quarterly, the first of such quarterly payments to be made at the end of the three months after his death, and charged portions in favour of the younger children of the marriage to the full extent allowed by the will, to be payable in the case of sons at the age of twenty-one, and in the case of daughters at that age or marriage, if the same respectively should happen after the death of Sir James de Houghton, but if in his lifetime, then immediately after his death.

By a supplemental indenture of July 26, 1895, Sir James de Houghton purported, in pursuance of the powers contained in the will, to appoint to Lady de Houghton during their joint lives a yearly rent-charge of 1000l., to be charged upon the estates devised by the will, to be payable by equal quarterly payments, the first of such payments to be made at the end of three months next after the date of the indenture; and, in further pursuance of the powers of the said will, he purported to charge the estates thereby devised with the payment from and after the date of the indenture for the maintenance and education of every child of the marriage for the time being entitled in expectancy to a portion under the principal indenture of such annual sum or sums of money as should amount to 4 per cent. interest per annum on the expectant portion of such child, to be paid to Sir James de Houghton as the guardian of such children during his life; and the deed contained a power of revocation and new appointment. Sir Henry de Houghton, who

1896
In re
DE HOUGHTON.
DE HOUGHTON
v.
DE HOUGHTON.

1896
In re
DE HOUGHTON.
DE HOUGHTON
v.
DE HOUGHTON.