

Privy Council Appeal No. 9 of 1927.

Anna Vassallo and others - - - - - *Appellants*

v.

George Debono and others - - - - - *Respondents*

FROM

HIS BRITANNIC MAJESTY'S SUPREME COURT FOR EGYPT.

JUDGMENT OF THE LORDS OF THE JUDICIAL COMMITTEE OF THE
PRIVY COUNCIL DELIVERED THE 18TH OCTOBER, 1927.

Present at the Hearing :

THE LORD CHANCELLOR.

LORD CARSON.

LORD DARLING.

[*Delivered by* THE LORD CHANCELLOR.]

This appeal appeared to raise a point of law of considerable interest, namely, the construction and effect of Article 77 of the Mixed Civil Code of Egypt, and the correctness of the decision of the Egyptian Court in the case of *Torrey Grant* (1907) ; but when the facts are explained it appears that no such point in fact arises on the present appeal, and that the appeal is misconceived.

As to the facts, it is enough to say that one Vincent Debono died in Egypt on the 23rd August, 1925, being a British subject domiciled in Egypt, and leaving sons and daughters and some grandchildren, the children of a deceased daughter. The fact that he was domiciled in Egypt was found upon the admission of some of the parties by the Supreme Court in Egypt, and is entirely sustained by the statements in the appellants' case, and that, therefore, must be taken to be the fact.

On those facts the Supreme Court, applying Article 77 of the Code as interpreted in the *Torrey Grant* case, held that the real estate of the intestate in Egypt devolved according to the ordinary law of Egypt as the *lex loci rei situs*, that is to say, according to Mahomedan law. That decision, as their Lordships are informed, would give to the sons a greater share than it would give to the daughters, and would give nothing to the grandchildren.

The daughters and grandchildren appeal, and the Case presented on their behalf, after setting out Article 77 of the Code, and Article 90 of the Ottoman Order in Council of 1910, states this: "It is submitted that in effect there is no *lex loci rei situs* of universal application in Egypt, and that, therefore, the law of the domicile or the law of England should be accepted." Taking that submission it puts two alternatives, the law of the domicile, or the law of England, and on either alternative the appellants are out of Court. The domicile was Egyptian, and it is the law of Egypt which the Supreme Court has applied; if, therefore the law of the domicile is that which should be applied the appellants have no complaint to make. On the other hand, if you take the real property law of England as it stood at the date of the intestate's death, the effect of it would have been to give the whole real estate to the heir at law, and the heir at law is neither an appellant nor even a party to these proceedings.

It is submitted on behalf of the appellants that in some way the law of Malta is to be taken into account. There is a statement in the appellants' case that Debono was born at Cephalonia of Maltese parents; but whether he was ever domiciled in Malta is a matter of doubt, and, at all events, it is certain that as he went to Egypt at the age of four and remained there until his death sixty years afterwards, he had long before his death acquired an Egyptian domicile, and his slight connection with Malta can have no effect.

The result of all this is that the point which was opened to their Lordships really does not arise, and accordingly they pronounce no opinion as to the decision in the *Torrey Grant* case, or as to any of the other Egyptian decisions which have been cited.

The appeal fails, because, on any view, there is no basis for it so far as the appellants are concerned, and their Lordships will humbly advise His Majesty that it be dismissed with costs.

In the Policy Council



University of California, Berkeley



In the Privy Council.

ANNA VASSALLO AND OTHERS

v.

GEORGE DEBONO AND OTHERS.

DELIVERED BY THE LORD CHANCELLOR.

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