

ARTU Summer 2024 Q & A

Description

Anal Retentive Title Underwriter Question & Answer

Q. In April of 2016, Mrs. Turner died and her will was probated without qualification by the named executor. All of her property was devised to specific individuals, with the exception of the Lake Property.

The will defined Residuary Estate as "all the remainder of my property which has not been disposed of by my will." However, there was no residuary clause. Another provision of the will specified that "I have specifically omitted Anna Long and Jeffrey Long from this will."

If Mrs. Turner had died intestate, all of her property would have passed to Anna Long, Jeffrey Long, Tommy Smith, and Peggy Anderson.

You are title company underwriting counsel, the Lake Property is now being sold by Tommy and Peggy, and you are asked to insure. You have done some research and are satisfied that Mrs. Turner died intestate as to the Lake Property, because there was no residuary clause (Kent v. Kent, 106 Va. 199 (1906)). Counsel for the seller is insisting that only Tommy and Peggy must sign, because Anna and Jeffrey were specifically disinherited. How do you opine?

- a. Anna, Jeffrey, Tommy and Peggy must all sign because the Lake Property passed by intestacy.
- b. The Lake Property can only pass via a court order.
- c. Tommy and Peggy only must sign because the will expressly disinherits Anna and Jeffrey.
- d. The executor must qualify and sign the deed.

A: The best answer is a: Anna, Jeffrey, Tommy and Peggy must sign. This is the classic case of we all know what the testator intended! she just didn't do it.

Category

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- 2. Uncategorized
- 3. Underwriting

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