In The

Supreme Court of Virginia

RECORD NO. 190832

SANDRA FLORA SNEAD LARSEN,

Appellant,

v.

PAMELA LARSEN STACK and KIRK LARSEN,

Appellees.

BRIEF OF APPELLEES

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SCV: Submitted on 01-31-2020 16:06:54 EST for filing on 01-31-2020

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INTRODUCTION

Sandra Flora Snead Larsen (hereinafter referred to as "Ms. Larsen") has appealed a determination, by the Circuit Court of Franklin County, of her interests in the Will of Mr. Erik Larsen (hereinafter referred to as "Mr. Larsen"). Mr. Larsen devised property to his children subject to Ms. Larsen "having the right to reside in our home…for so long as she is physically and mentally able to do so…."

At the trial of this matter, after hearing openings by the attorneys, the Circuit Court of Franklin County accepted as evidence the Last Will and Testament of Mr. Larsen, a prenuptial agreement between Mr. Larsen and Ms. Larsen, a summary of the answer of Ms. Larsen and heard evidence from Mr. Colby Brown, the scrivener of the Will. Thereafter, based on this evidence, the Court found that Ms. Larsen did not have a life estate but a "right to reside." The court found that Ms. Larsen had the right to "live, dwell, abide, stay and remain" upon the property. The court further found that the phrase "so long as she is physically and mentally able to do so" meant that her right to reside would terminate if she had to go to a nursing home or "couldn't live by herself anymore."

The Circuit Court of Franklin County did not err. Ms. Larsen claimed a life estate subject to an executory limitation in the language used by Mr. Larsen. Mr. Larsen's children claimed that Ms. Larsen had a "right to reside" limited by her physical and mental ability to live there. Two distinct positions taken based on the language used. The Court heard from the drafting attorney and based upon the "ACTUAL TESTAMENTARY INTENT" (Brief of Appellant, p.1) and the language used by Mr. Larsen, the Court found that her "right to reside" was limited to Ms. Larsen only.

Because the actual testamentary intent is what this Court must determine, the decision of the Circuit Court of Franklin County should be affirmed.

STATEMENT OF THE CASE

Pamela Larsen Stack and Kirk Larsen ("Stack and Larsen" or "the children") agree with the Statement of the Case prepared by Ms. Larsen except for the fact that the answer of Ms. Larsen specifically stated:

> Sandra Flora Snead Larsen was not granted a life estate…but an estate in the property for so long as her physical and mental health allows her to remain on the property. Erik Larsen did not intend for his wife, Sandra Flora Snead Larsen, to have a life estate….(JA p.5)

There was no Order entered by the Circuit Court of Franklin County allowing an amendment to that answer. There was no acknowledgement by the Court

as to the half-hearted effort by Ms. Larsen's counsel to offer an amendment. In fact, her counsel continued to argue incorrectly about what the answer actually said. (JA, pp. 56-57).

In addition, there was a prenuptial agreement between Mr. and Ms. Larsen offered into evidence. (JA p. 132). In this agreement, Mr. Larsen and Ms. Larsen agreed that

> …in the event [Mr. Larsen] should predecease Ms. Larsen, then [Ms. Larsen]…shall have the right and privilege to remain in said marital residence for up to one year….(JA, p.133).

STATEMENT OF MATERIAL FACTS

Stack and Larsen agree basically with the facts as set forth by Ms. Larsen. However, the following is intended to correct and amplify her statement.

The Parties

Mr. and Ms. Larsen entered into a prenuptial agreement in 2007. (JA, p.132) In this agreement, Mr. and Ms. Larsen agreed that "in the event [Mr. Larsen] should predecease [Ms. Larsen], then [she] shall have **the right and privilege to remain in said marital residence** for up to one year…." (JA, p. 133) (Emphasis Added).

The Hearing

Ms. Larsen suggests that the children offered testimony from Attorney Brown after agreeing that it was not necessary. However, the Court stated: "I think we need Mr. Brown to testify. I mean you can cross-examine him…." (JA, p.58, lines 11-13). There was no objection from Ms. Larsen's counsel.

All of the other statements relied upon by Ms. Larsen are not facts but argument by counsel at the hearing. (JA, pp.17-133).

Mr. Brown testified without objection by Ms. Larsen's counsel at the time he was called. (JA, p. 58-59). Ms. Larsen's counsel even agreed he was "qualified to testify on his drafting of the Will." (JA, p.59, lines 13-16). Ms. Larsen's counsel even participated in the questioning. (JA, p. 65). He even asked Mr. Brown: "Well then, Mr. Brown, tell us what Mr. Larsen meant in paragraph five." (JA, p.67, lines 14-15). In response to questions from Ms. Larsen's counsel, Mr. Brown stated that Mr. Larsen "intended for Ms. Larsen to be able to stay on the property." (JA, p.67, line 17). Without objection, Mr. Brown further stated that Mr. Larsen intended for Ms. Larsen's interest in the property to dissolve "in the event she had to go into a nursing home…or…couldn't live by herself anymore…." (JA, p.69, lines 7-12).

STANDARD OF REVIEW

For the interpretation and legal effect of written documents, a *de novo* review is warranted. Jiminez v. Corr, 288 Va. 395, 404, 764 S.E.2d 115, 118 (2014); Jones v. Brandt, 274 Va. 131, 135, 645 S.E.2d 312, 313 (2007).

ARGUMENT AND AUTHORITIES

1. Mr. Larsen devised his wife a "right to reside"—nothing more, nothing less.

Mr. Larsen intended, by the words he used in his Will, to allow Ms. Larsen the "right to reside" on his property for so long "as she was physically and mentally capable of doing so." These were his words. These were his intentions. He did not use language of life estate nor did he suggest or intend that Ms. Larsen have life estate rights and responsibilities in his land after his death.

A. Mr. Larsen's Will is clear regarding the disposition of his property.

The Court's rule is to give meaning to the words used by Mr. Larsen in the disposition of his property after his death. The Court must

> "construe the Will which the testator has made and not to speculate as to his intention, or to make a Will for him." Jackson v. Fidelity & Deposit Co., 269 Va. 303, 310, 608 S.E.2d 901, 904 (2005).

This Court has recognized that it must

> …determine the intention of the testator from the language which he has used, and if the meaning of that language is plain, the Will must be given effect accordingly. Jiminez v. Corr, 288 Va. 395, 413, 764 S.E.2d 115, 123 (2014).

In each case, this Court has found:

> …the testator's intention is our paramount concern, and that intention must be ascertained by examining the Will as a whole, not by reading phrases out of their context. Gaymon v. Gaymon, 258 Va. 225, 230, 519 S.E.2d 142, 145 (1999).

This Court has stated:

> The intent of the testat[or] is the polar star for the guidance of the Court. This intent must be collected from the language of the Will examined as a whole, giving force and effect to every clause. It is not to be presumed that the testat[or] used an unnecessary word or one to which no force can be given. Potts v. Rader, 179 Va. 722, 727, 20 S.E.2d 690, 691 (1942). (Citations Omitted).

This Court has provided direction on how to determine the testator's Will.

> In construing a Will, two inquiries are to be made. First, what is the intention of the testator as expressed by him in the words he has used? His intention is the animating spirit, the essence and soul of the Will. His language is the vehicle used to convey his intention which, when ascertained, is the governing principle, and must prevail…. Sheridan v. Krause, 161 VA. 873, 172 S.E. 528. In this first inquiry, the intention of the testator must be gleaned from the entire Will by examining and comparing all of its provisions in the light of surrounding circumstances….(Citations Omitted). Trustees of Duncan Memorial Methodist Church v. Ray, 195 Va. 803, 805-06, 80 S.E.2d 601, 603 (1954).

So, this Court must look at the words used by Mr. Larsen in the entire Will.

B. Not only was Mr. Larsen's words and intentions clear, Ms. Larsen agreed that she did not have a life estate.

Not only do Mr. Larsen's words clearly not convey a life estate, Ms. Larsen agreed. In ¶4 of her answer, Sandra Flora Snead Larsen responded:

> 4. In response to the allegation in paragraph 1, Sandra Flora Snead Larsen was not granted a life estate in the above-referenced tract, but an estate in the property for so long as her physical and mental health allows her to remain on the property. Erik Larsen did not intend for his wife, Sandra Flora Snead Larsen, to have a life estate…. (JA, p.5) (emphasis added).

There was no Order allowing her to amend her answer nor was there any acknowledgment by the Circuit Court of Franklin County that she had amended her answer.

C. The language of Mr. Larsen was confusing as to what interest he left Ms. Larsen.

Stack and Larsen filed this declaratory judgment action because the language of Mr. Larsen was confusing regarding the extent of the interest left to Ms. Larsen.

Prior to the trial, the parties took two separate and distinct positions concerning the identical language in the Will. In the complaint, the children of Mr. Larsen took the position that the language in question did not create a life estate in Ms. Larsen. In fact, Ms. Larsen took the same position that the

language did not create a life estate. It was not until the trial had already begun that Ms. Larsen's counsel advised the Court that there may be some change in her position. No request to amend her answer had been filed. No Order was entered verbally or in writing.

So, at trial, the language of the Will had not changed but the position of Ms. Larsen had changed. At trial, she took a completely different position from her answer. What had been a claim of no life estate and an answer arguing that there was no life estate intended, became a disagreement between the parties. No longer was there agreement on the meaning of the language.

As a result, the Court decided to hear evidence from the attorney who drafted Mr. Larsen's Will (JA, p.58, lines 11-13). Mr. Colby Brown testified that Mr. Larsen did not intend for Ms. Larsen to have a life estate in the 101 acres farm. He also testified that he wanted Ms. Larsen to have a place to stay as long as she could do so by herself.

The language used in the Will was susceptible to two different meanings. Ms. Larsen's own actions support this position. In her answer, Ms. Larsen admits that she had no life estate in the 101 acres. She further admits that Ms. Larsen did not intend for her to have a life estate. This answer was prepared and filed by Attorney Colby Brown who also testified at trial. It was

not until trial that Ms. Larsen attempted to change her answer. Clearly, she must have thought the language was capable of two different meanings because she took two different positions.

In fact, at trial, counsel for Ms. Larsen took the position that "right to reside…for as long as she is physically and mentally capable of doing so" was equivalent to a life estate. In his Will, Mr. Larsen used the term "life estate" in paragraph "Sixth" in reference to property in Roanoke County, Virginia, in describing the interest he was leaving to Ms. Larsen. He had "right to reside" in paragraph "Fifth." Counsel for Ms. Larsen initially took the position that these two phrases conveyed two separate and distinct interests but at trial they assert that these phrases evidence a desire to convey the same type interest.

Clearly, Ms. Larsen believed the language to be confusing and ambiguous. Her position is opposite of any agreement that the Will was not ambiguous. The evidence offered by Mr. Brown was "facts and circumstances" evidence. This type of evidence is admissible to ascertain the testator's intent where a Will is determined to be ambiguous. See Gillespie v. Davis, 242 Va. 300, 440 S.E.2d 613 (1991).

Mr. Brown testified that Mr. Larsen wanted Ms. Larsen to have a place to reside as long as she could do so by herself. This was the clear meaning of

the language of Mr. Larsen. The limitation on her interest was based upon HER physical and mental abilities. He testified that Mr. Larsen did not want his children to have any problem getting the farm if Ms. Larsen needed to go into a nursing house. He wanted his children to have the farm. This is exactly what Mr. Larsen's words conveyed. All of this is evidence as to Mr. Larsen's "hopes and fears." This is "facts and circumstances" evidence. If these facts also indicate Mr. Larsen's actual intentions, then so be it. As this Court can plainly see, Mr. Larsen addressed his "hopes and fears" by using different language. By specifically giving Ms. Larsen a "life estate" in one piece of property and a "right to reside" in the other is a clear statement that he did not intend the identical interest be devised in the two properties.

The differing legal interpretations about the nature of Ms. Larsen's interest is the confusion: right to reside or life estate. Otherwise, there is none. Ms. Larsen obviously felt there was none based on her answer. This was Mr. Larsen's Will. What he intended by the language he used is the only concern. He gave Ms. Larsen a life estate in one piece of property. He did not give her one in the other. Just look at the plain meaning of the words he used.

D. Ms. Larsen has an interest but not a life estate.

The language used by Mr. Larsen in his Will gave Ms. Larsen rights in and to his 101 acres. The Will indicates she was provided "the right to reside" on the property "for so long as she is physically and mentally able to do so." He clearly had no intention of creating a life estate at any time in the 101 acres.

By the terms of his Will and the language he used, Mr. Larsen knew and understood a life estate. He used express language in the creation of the life estate he devised to Ms. Larsen in property in Roanoke County, Virginia. Based on this obvious knowledge, he knew how to create and devise a life estate.

This provides more insight as to why he did not intend or imply a life estate in the language he used concerning the 101 acres in Wirtz, Virginia. A life estate includes more than just a right to reside in a house. A life estate includes "the right of possession and use of the land and all the profits arising…including income…from [the property]." McCawley v. Dismal Swamp Land Co., 41 Va. (2 Rob.) 507 (1843). A life tenant is liable for waste in the use of the real estate in any manner, shape or form which works as permanent injury to the estate of the remaindermen. Harrison on Wills and Administration for Virginia and West Virginia (4th edition) § 19.14, p. 19-34. A

life tenant is to pay the taxes and preserve the property. Kincheloe v. Gibson, 115 Va. 119, 78 S.E.603 (1913).

Furthermore, Mr. Larsen obviously did not intend for Ms. Larsen to have anything more than the "right to reside" in the house for a restricted period of time. This restricted use is clearly set forth in the words he chose to convey that restricted use. Ms. Larsen wants to place the emphasis on the limitation being on her ability to live on the property. Actually, the limitation is on the use of the term "reside." This is the limit of her use. Ms. Larsen can "reside" in the house until she is mentally or physically incapable of doing so. Even her right to collect rent from the cell tower was based upon her ability to reside on the property.

Mr. Larsen's language is clear and plain. He specifically devised her the "right to reside" in the home on Mystic Lane in Wirtz, Virginia. The only interest devised was the "right to reside." Nothing more. This interest is further conditioned upon Ms. Larsen being able to "physically and mentally able to" reside in the house. Notice that Mr. Larsen limits the residence based on Ms. Larsen's ability and not with the existence of any others. It likewise does not give the right to extend that interest to any others.

The Court heard the testimony of Mr. Brown, Mr. Larsen's attorney, in regard to the use of this phrase. Specifically, Mr. Brown testified that Mr.

Larsen did not intend for Ms. Larsen to have a life estate. He wanted his children to not have problems with a nursing home if Ms. Larsen had to go to one. This would be consistent with the language he used, the language he didn't use, and the clear intention of his Will. If Mr. Larsen had truly wanted Ms. Larsen to have a life estate, he would not have had to give her the rent for the cell tower located on the land. A life estate would have provided it for her anyway.

In a case similar to the one at bar, this Court has construed similar language in an earlier Will. In White v. White, 183 Va. 239, 31 S.E.2d 558 (1944), this Court considered an interest left to a widow, Mabel White, in the Will of her husband, W. M. White. He left his mansion house to his son, Arnold B. White, and wrote: "I want my wife to have a home at the mansion house with Arnold, as long as she remains my widow…." Id. at 242, 31 S.E.2d at 559.

The Court recognized "the intention of the testator, if it can be perceived, is the key that unlocks the door to every Will." Id. at 248, 31 S.E.2d at 561 (quoting Farmers Bank v. Kinser, 169 Va. 69, 192 S.E. 745 (1937)). The Court further found:

> The testator manifested a completely natural desire for the wife of his bosom to have a home…after his death, a home provided by him as long as she remained his widow…. The tenure of her right was not limited to the life of Arnold, but by the period during which

she remained the testator's widow. Id. at 249, 31 S.E.2d at 562 (emphasis added).

Notice the similarity to our case. Mr. Larsen wanted his wife to have a home ("right to reside") and the tenure of that right was limited to "so long as she is physically and mentally capable of doing so." The White Court did not find a life estate. They rejected Mabel White's claim that her interest was greater. They interpreted the language, by concluding: "…it may be fairly said that he clearly intended to provide for her a dwelling place or shelter." Id. at 250, 31 S.E. at 562.

There is no question but that Mr. Larsen meant for Ms. Larsen to have a place in which to live in the home at 394 Mystic Lane, Wirtz, Virginia. This was to last until she was no longer physically and mentally capable of living there. The language is clear and does not devise or create a life estate.

He intended for her to have a place to live without the further liabilities and duties of a life tenant.

E. The "right to reside" in the house does not mean she has a life estate.

The Circuit Court of Franklin County concluded that Ms. Larsen was given a "right to reside" upon the property. The court found that the clear language of the Will devised her a "right to reside" and not a life estate. The position taken by Ms. Larsen absolutely refuses to give the plain meaning to

the term “reside” and tries to stretch it to include legal rights that Mr. Larsen did not intend.

Ms. Larsen was given the “right to reside” in the house. She was not given full benefit and enjoyment of the property. She was given the right to reside until she was incapable of doing so. Clearly, any ambiguity in determining the difference between ‘right to reside” and “life estate” was cleared up by Mr. Larsen’s words, Mr. Brown’s testimony, and Ms. Larsen’s answer. She did not have a life estate and she did not claim one.

There is no reason and need for Virginia to adopt the reasoning of other courts to resolve the issue in this case. The plain meaning of the words used by Mr. Larsen are all that is needed. He actually used the term “life estate” earlier in his Will. He chose not to use it regarding the interest he was devising to Ms. Larsen in the house on Mystic Lane in Wirtz, Virginia. He used very different terms intending a very different result. He did not want Ms. Larsen to have a life estate. He did not want her to enjoy and benefit fully from the entire parcel. He gave her the rents from the cell tower specifically and gave her the right to reside in the house. THAT IS ALL. He did not give his children the present right to reside in the house but he did not limit their present right to enjoy and use the rest of the 101 acre property.

Regardless of how many times Ms. Larsen refers to her interest as a life estate in her brief, she simply does not have one. Larkin v. Wright, 185 Va. 447, 39 S.E.2d 355 (1946) is cited by Ms. Larsen in support of her position. In Larkin, this Court ultimately found that Blanche Larkin did not have life estate as alleged in the Will but she had fee simple ownership of the house at 101 Amelia Street. In that case, Ms. Larkin was willed "all of my property of every kind and description, except for a piano…for the life, and at her death…." Id. at 449, 39 S.E.2d at 357.

In the case at bar, Ms. Larsen was not devised the property on Mystic Lane in Wirtz, Virginia for her life. She was not devised an interest in the 101 acres for life. Ms. Larsen was not given anything other than a "right to reside." This right is not as inclusive as a life estate. It was limited to the house and this right to reside was limited to her ability to do so.

2. The plain meaning of the Will requires Ms. Larsen to reside by herself, on the property.

The Order of the Circuit Court of Franklin County gave clear meaning to the words used by Mr. Larsen in his Will. Not only did his words mean what he intended but the testimony of the drafting attorney, Mr. Brown, affirmed his intention.

Mr. Larsen used the terms "right to reside" for a reason. He gave the "right to reside" to only Ms. Larsen. The language he used was singular. He

did not include her children. He did not include anyone else in the "right to reside." Mr. Larsen did not give Ms. Larsen the authority to expand that right either.

In its ordinary meaning, "reside" means:

> …to live, dwell, abide, stay, and remain upon…. Black's Law Dictionary (Sixth edition).

This is exactly the meaning recognized by the Circuit Court of Franklin County. It is the meaning specifically stated in the Final Order in this case.

In his Will, Mr. Larsen gave his children ALL of the 101.39 acres located at 394 Mystic Lane, Wirtz, Virginia. This is clear. He gave his wife, the right to "live, dwell, abide, stay and remain upon" that same land.

Interestingly, without offering any evidence, counsel for the appellant tries to argue that the Last Will and Testament of Mr. Larsen gave this right to reside to the appellant, Ms. Larsen, and it was to be "free and clear of any control, influence, interference and interrogation of Mr. Larsen's children." (Assignment of Error #2). It is clear that this language does not appear in the Will. It is clear that the appellant offered no evidence as to this assertion. There was no evidence as to this being Mr. Larsen's intention. Clearly, no words give this intention.

The Circuit Court of Franklin County gave "reside" its ordinary meaning because it is clear. Mr. Larsen intended for his wife to "live" on 394 Mystic

Lane. He intended for her to “stay upon” 394 Mystic Lane. He intended for his children to own 394 Mystic Lane. He did not intend to limit that ownership except to the extent that Ms. Larsen could “dwell” in the home upon the 101.39 acres. As unreasonable as it may appear to Ms. Larsen, the Circuit Court of Franklin County could not “make a Will” for Mr. Larsen by changing the meaning of the words used.

Counsel for Ms. Larsen brazenly argues that the absence of terms like “life estate” does not preclude an actual life estate but that “by herself” has no meaning because it is absent from the Will. Mr. Larsen devised to Ms. Larsen a “right to reside” in the house on Mystic Lane, Wirtz, Virginia, for so long as SHE was “mentally and physically able” to do so. If this right to reside was not intended for use by Ms. Larsen only, then there was no need to use the language of limitation. As stated earlier, if it was not intended for her by herself, she could hire healthcare providers or sitters or family members and theoretically, she would never be physically and mentally unable to live there.

This is no modification of the Will. It is noting the words used by Mr. Larsen, giving them their plain meaning and conforming that with the testimony of his attorney who drafted the Will.

A. **Attorney Brown's testimony as to Mr. Larsen's intentions set forth in his Will was admissible and even if it were not, its admission is harmless error.**

The trial court heard from Attorney Brown for a number of reasons. Attorney Brown's testimony was received to determine what Mr. Larsen intended by the right to reside being in the home at Mystic Lane, Wirtz, Virginia. It was also received to help the court determine what Mr. Larsen intended by "right to reside…as long as she is physically and mentally able to do so."

The finding of the Circuit Court of Franklin County is supported by and based upon the intent of Mr. Larsen. The plain meaning of the language used by Mr. Larsen did not grant a life estate and did limit Ms. Larsen's interest to her alone.

Counsel for Ms. Larsen suggests that Mr. Larsen did not intend for Ms. Larsen to live in isolation. That has never been suggested. There seems to be no limit on guests or invitees. However, Mr. Larsen did not extend to anyone else the "right to reside" on his property. He did not give to anyone else the right to inhabit his house. He also did not say or imply that "Ms. Larsen live the rest of her life in comfort on the property she has enjoyed as her marital residence." (Monday, Opening Brief of Appellant, January 7, 2020,

p. 23, lines 4-5). To obtain this result, one would have to add much language to Mr. Larsen's Will. As Ms. Larsen points out:

> It is well-settled that a Court may not add words to an unambiguous instrument. E.g. Rule v. First National Bank, 182 Va. 227, 235-36 (1944) (words may not be added to an unambiguous Will);…Rather, in interpreting a Will, "[t]he cardinal rule of construction is that the intention of the testator must be determined from what he actually said and not from what it may be supposed he intended to say." Rule 182 Va. at 230. Monday, Opening Brief of Appellant, January 7, 2020, p.21.

3. The Will gives Ms. Larsen the "right to reside" on the property.

The Circuit Court of Franklin County held that Ms. Larsen had the right to reside on the property by herself and that the rights of the children are limited only to the extent that they interfere with Ms. Larsen's ability to live on the property by herself. As stated, this is a succinct finding based on the language used by Mr. Larsen. This finding is not erroneous.

The "right to reside" is intended for Ms. Larsen only. It is not a life estate. That is not what Mr. Larsen intended.

Since her interest was not intended to be a life estate, she is entitled to only what she was devised. She was devised a "right to reside." This does not include "full use and enjoyment of the property." Those rights extend to fee simple ownership or life tenants. These rights do not extend to one who is only given a "right to reside."

Stack and Larsen own the property subject to Ms. Larsen's right to reside upon the property. The Court's Order does not refer to the children as remaindermen. The Court speaks through its Order and the Court found that the children could not interfere with Ms. Larsen's right to reside upon the property. Her rights to the property are not broad, as counsel for Ms. Larsen suggests on page 25 of her brief but are limited to residency.

The rights of Stack and Larsen are limited only to the extent that they interfere with Ms. Larsen's right to reside on the property for so long as she is physically and mentally able to do so. As the Circuit Court of Franklin County held, the right to reside means, the right "to live, dwell, abide, stay and remain upon" the property. Ms. Larsen gets to live on the property; dwell on the property; abide on the property; stay on the property; and, remain upon the property. She is not a life tenant and has no further rights in the property. According to the Will and the trial court, Mr. Larsen's children cannot interfere with those rights.

CONCLUSION

This Court has held:

> The primary consideration and rule of construction is to determine the intention of the testator from the language which he has used. If the meaning of his language is plain, the Will must be given effect accordingly. Penick's Ex'r v. Walker, 125 Va. 274, 278, 99 S.E. 559, 560 (1919).

The Circuit Court of Franklin County gave the words in the Will of Mr. Larsen their plain and simple meaning. Ms. Larsen was devised a "right to reside" at 394 Mystic Lane, Wirtz, Virginia, which included the right to live upon, dwell upon, abide upon, and stay upon. This was not a life estate. It was a right to live there until she could no longer live alone.

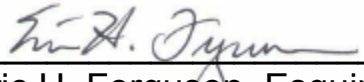
Because it was not a life estate, the children of Mr. Larsen—Stack and Larsen—have the right to use the property so long as they do not interfere with the right of Ms. Larsen to reside upon the property.

Mr. Larsen's words and intentions were clear.

The decision of the Circuit Court of Franklin County should be affirmed.

PAMELA LARSEN STACK
AND
KIRK LARSEN

By Counsel



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CERTIFICATE

I hereby certify that on this 31st day of January, 2020, pursuant to Rule 5A:26, three paper copies of the Brief of Appellees were hand-filed with the Clerk of the Supreme Court of Virginia and an electronic copy of the Brief was filed, via VACES. On this same day, an electronic copy of the Brief of Appellees was served, via email, upon:

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This Brief contains 5,266 words, excluding those portions that by rule do not count toward the word limit.

Counsel for the Appellees does not waive oral argument.

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