

Peter Lewis & ^{Anna James Lewis}
 to John C. B. Smith } F.S.G.W.
 March 11, 1895
 March 11, 1895 X-555
 Prof. E. W. P.
 down prop removed (A. James D.)
 350.00

Convey. To abstr
 Subject to abstr. of map was called in
 western side 8' wide granted by Peter Lewis
 to Nathan Myers by deed of May 15, 1890,
 recorded in Book X p. 390, said lot being
 delineated on plat herewith attached.
 Plat referred to recorded plat Book A p. 56

Peter Lewis,
 to J. C. B. Smith } F.S.G.W.
 July 16, 1895
 July 16, 1895 Y-63
 Prof. E. W. P.
 down by Anna James
 500.00

Convey. - Peter T's abstr.

4433
~~157 1/2 - 4483~~

~~440 12018~~ Est of Janice
 Steele Smith } Book 440
 Book 12,018

Pat. of J. C. B. S. for letters dated April 17, 1935
 sets out that J. S. S. died intestate Aug. 5, 1934
 leaving as only heirs at law Daisy S. Smith
 daughter to Geo. A. B. Smith, a grandson, test.
 valued at 12,364.09 + real est (including
 in colonial weights) at 1,000.00
 letters issued May 16, 1935

affidavit
 certificate in roll of Daisy S. Smith that
 she is daughter of Mrs. J. C. B. & as such
 entitled to a one-half part in the net
 est. of said decedent. That the decedent
 lived on the attached certificate from the
 auditor's office for R. C. in the name of
 Mrs. Smith, but for property of her
 lifetime and at her death one-half
 interest therein passed to this decedent
 under the terms of the will of J. C. B.
 Smith, decedent.

attached is cert. of death that Mrs.
 J. C. B. Smith returned for transport to
 Phil & S. Lytle ~~de~~, which record shows
 to be her ~~de~~ in Cayles

Est J. C. B. Smith } Box 157 1/2
 } Page 4433

of former proceedings were
 voided in the
 probate ct

(after letters had been issued on my will July 19, 1905, a copy sent me when found
 will placed in course papers & admitted to
 probate Aug. 3, 1905 & letters test. issued
 to Mrs. Jennie E. Smith same date
 with Pet showed J. C. B. Smith died July 13,
 1905.

will dated April 26, 1890, pupul Est W
 I voided

" I will bequeath and devise all of my
 property both personal and real to my wife
 Jennie E. Smith during her widowhood and at
 her death to be equally divided between
 my two daughters Daisy C. Smith and
 Jennie Eliza Smith and in case one or both

of said daughters should marry and leave
 child or children, then the child or children of
 each to have the distributive portion coming
 to said mother and in case one of my
 daughters should die without living
 issue, then my surviving daughter or their
 living issue shall have and receive the
 portion of the deceased, or both. In case
 my wife should marry, then she to have
 for her own use and support the one
 third of the income of my entire estate
 both personal and real, and the remaining
 two thirds of my income to go to the
 support of my daughter or daughters,
 Henry C. and Jennie Eliza, now in
 care of either or both of said daughters
 should die without issue then I desire
 that my wife shall receive the two
 thirds of income allotted to them,
 until her death, I further distinctly
 state that no part of my estate
 both personal and real or the interest
 or rents accruing therefrom, shall be
 in any way shape or form liable to
 seizure or distress for debts contracted."

That the provision for distribution should
 be death of wife if daughter had
 predeceased her.

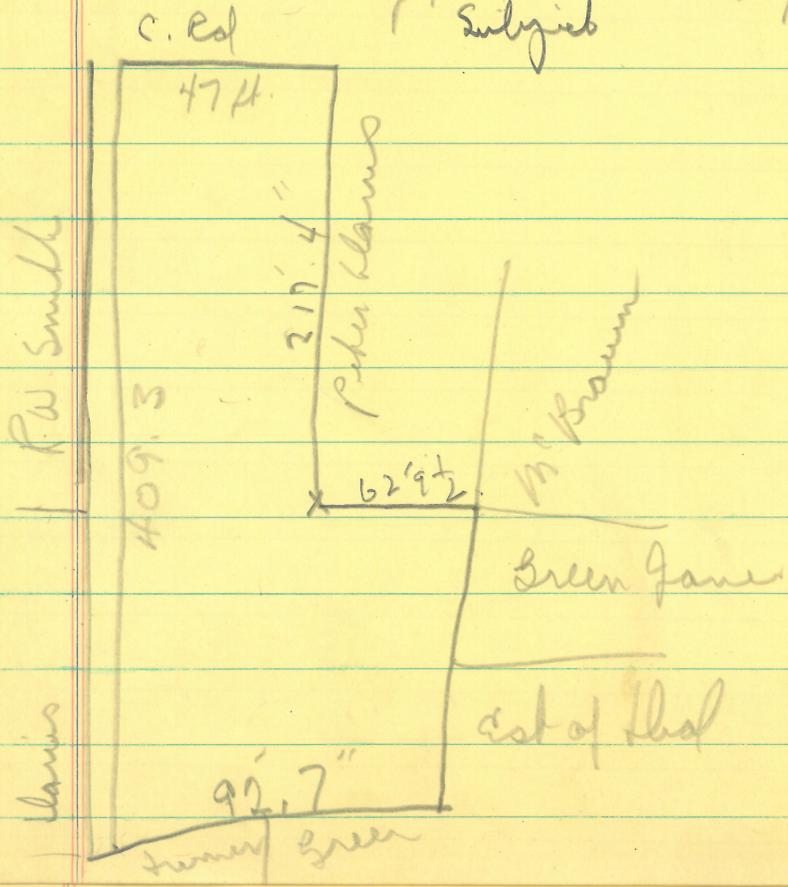
James E. Smith, T^r who
 rights to sell or charge interest of land given
 unjustly or such value reached that demand had
 to be.

Memorandum - "I rest my claim on the 10th of June 1866 please containing one of our land case"

will summarize these referred to, coming

Peter Havis) 4555-7895
 to) dated Mar 11 1895
 John C B Smith) Rec Mar 11 1895
 Cans 350.00 paper + Prob
 Havis Renounced

All that I pur of l in the south side of the
 Camden Rd about 1/2 M East of Hardsk of the
 C of C. Commencing at the Corner of a lot
 of R. W. Smith and running southerly along
 line of R. W. Smith and Peter Havis 409 ft 3 in
 to lot of Turner thence easterly along line
 of Turner & Green 92 ft 7 in. to East of Dial
 thence along East of Dial and Green Jones to
 point on lands of Green Jones ^(Mae Braun)
 & Peter Havis corner thence westerly
 62 ft 9 1/2 inches to a stake 47 ft from
 line of R. W. Smith thence northerly on line
 parallel with R. W. Smith 217 ft 4 inches to
 Camden rd. thence westerly along Camden
 Rd 47 ft to the beginning (subject to st of way
 on west 2 ft to Nathaniel Myers etc)



Peter Davis

to

John C. B. Smith

463 F.S.W.

Dated July 16 1895

July 16 1895

Cons ~~500.00~~ \$500.00 Mass. Ken.

Prop. Ex. + Pool.

All that part of 1/5 slab on the Cor R + St. -
apres and one half mile east of the Cor C
on the S S of Camden Rd fronting thereon
eighty three ft containing 1/2 acre more
and bounded as follows: on the N by
Camden Rd. on the east by lands of
M^r Brown formerly thier and on the south
& west by lands of J. C. B. Smith said
tract of land being a part of tract
conveyed to Peter Davis by Wm Wall
Turber Dec 1869.

Smith Mrs J. C. B. Camden rd

1 lot 50.

5 lots 500

STATE OF SOUTH CAROLINA.

COUNTY OF RICHLAND.

Before me personally comes Daisy C. Smith, who being duly sworn says that she is the daughter of Mrs. J. C. B. Smith, Deceased, and as such is entitled to a one-half interest in the net estate of said decedent. That the lands listed on the attached certificated from the Auditor's Office for Richland County in the name of Mrs. Smith were her property only for her lifetime and at her death one-half interest therein passed to this deponent under the terms of the Will of John C. B. Smith, Deceased.

Daisy S. Smith

Sworn to before me this
15th day of May 1935.

W. C. Boyd, Jr.
• Notary Public for S. C.

Deed Book D.Z. Page 426, October 31, 1935

D.C.S. and J.C.B.S. Bachelor, to Bagnal

Said tract being a portion of the lands formerly belonging to John C. B. Smith who died Estate in 1900 and the grantors herein being the sole remaindermen entitled to the lands of said John C. B. Smith deceased upon the death of his widow Jennie E. Smith on August 5, 1934.

Deed Book E.A. Page 85, January 17, 1936

Whereas John C. B. Smith late of the County of Richland, State aforesaid, died Testate on the 13th day of July 1900, leaving of force his last will and testament whereby he devised his property, including lot hereinafter described to his widow Janie S. Smith, for life, with remainder over to his children and grandchildren; and whereas Janie S. Smith, widow and life tenant, died August 5, 1934 leaving her daughter Daisy C. Smith and her grandchild John C. B. Smith, as the sole survivors remaindermen under the will of John C. B. Smith deceased.

Daisy C. Smith and John C. B. Smith, Bachelor, to Board of School Commissioners.

Davis v. Hodge, et al. 102 S.C. 178 ; 86 S.E. 478:

Testator left all of property to wife for life. At her death to be divided among five children "share and share alike, should any of the above named children die without heirs or children of their own body, the property shall recur to my children mentioned in article second ...".

Court held that this use of "children" must be construed "heirs of the body". And later said "In a will 'heirs of the body' and 'issue' are almost invariably held to be synonymous".

Basing my construction in great part upon the principles announced by Judge O'Neal in the case of Bedon v. Bedon, I am constrained to hold that the plaintiff takes under said will a fee-simple estate, defeasible upon her death without heirs of her body living at the time of her death. If she dies leaving heirs of her body living at that time, then her estate becomes absolute. If she leaves no such heirs alive at her death, then under the executory devise the estate goes over to the other children or their families. Citing Thompson v. Peake, 38 S.E. 440, 17 S.E. 45, 725; Gordon v. Gordon 32 ~~SE~~ 563, 11 SE 334; Shaw v. Irwin, 41 SC 209, 19 SE 499; Durant v. Nash 30 SC 184, 9 SE 19.

See *Spencer v. Gibson*

116 S.E. 432

Drummond v. Drummond, 146 S.C. 194, 143 S.E. 818:

Pertinent portion of will under construction here "I will and bequeath to my son, P.H.D., 105 No. 2Should P.H.D. die without issue, the lands to revert back to the heirs of my body."

Court held that P.H.D. took a fee simple defeasible, saying:

This annexed conditional limitation to the fee-simple estate previously given to the plaintiff rendered said estate liable to be defeated upon the happening of the contingency named, to wit, dying without issue.

Schnell v. Sottile, et al., 115 S.C. 275 105 S.E. 415:

Under will testator left all property to son. Then by a second codicil he provided that should his son die and leave no children the property should go to three other people. Lower court held that son got a fee simple since he was alive at the death of the testator. Supreme Court reversed, saying:

A proper construction of the will and codicil makes clear the intent of the testator that the disposition of his property is to take place after testator's death. If the son had pre-deceased him, he could not take possession of the property. By his codicil he expressly provides after his death.

The son took a fee defeasible, on his dying without leaving children. This he may do, and, if he does, his fee will be defeated and the limitation over will take effect. Hence he cannot convey an indefeasible title.