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Property—Personal Property—Stock—Conflict of Ownership

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Stock—Conflict of Ownership

In *Bata v. Bata*,⁴⁷ the Court of Appeals affirmed the judgment of the court below in the adjudication of conflicting claims to shares of stock of a Czech business enterprise deposited in a New York safe deposit box. It was determined that the plaintiffs, statutory heirs of a wealthy Czech industrialist, had the "better right" to the shares in suit which defendant, half brother of decedent, claimed by virtue of an alleged contract of sale and estoppel. That the New York court had obtained jurisdiction had been previously established over defendant's objection thereto on the ground of *forum non conveniens*.⁴⁸ Under the law of Czechoslovakia, the alleged contract between defendant and decedent, of which there was signification in decedent's will, was held invalid, and all of decedent's property, subject to certain debt and legacy payments, devolved upon the plaintiffs, his heirs, via intestacy. Further, the courts below determined that defendant had not established either constructive or actual possession of the shares of stock in question by virtue of plaintiffs' past conduct, and hence the latter were not estopped from claiming their right to the shares as property included in the estate which they inherited. Inasmuch as it appeared from the evidence that there was some factual basis for this determination, the Court of Appeals was precluded from finding otherwise.⁴⁹

C. *Trusts and Future Interests*

Disposition of Corpus to Life Beneficiary

a. *Duty to account*: A testamentary gift of personal property for life with a remainder to others, in effect constitutes the life tenant a trustee of the principal fund for the benefit of the remaindermen.⁵⁰ Hence he has no right to invade the principal fund, but is to have only the income for himself, and must account as a trustee to the remaindermen.⁵¹ If he fails to account, any doubts as to his use of the fund are to be resolved against him.⁵²

In a recent case,⁵³ personal property had been given to a tenant for life with remainder to such of his children as he might

47. 306 N. Y. 96, 115 N. E. 2d 672 (1953).

48. *Bata v. Bata*, 304 N. Y. 51, 105 N. E. 2d 623 (1952); see 2 BFLQ. L. REV. 73 (1952).

49. See *Matter of Kaplan*, 284 N. Y. 584, 63 N. E. 2d 337 (1945).

50. *Matter of Von Kleist*, 265 N. Y. 422, 193 N. E. 256 (1934); *Matter of Denton*, 102 N. Y. 200, 6 N. E. 256 (1886).

51. Surrogate's Court Act §261-a applies the statutory provisions relating to trustees to legal life tenants.

52. *White v. Rankin*, 18 App. Div. 293, 46 N. Y. Supp. 228 (1897), *aff'd*, 162 N. Y. 622, 57 N. E. 1128 (1900); 4 BOGERT, TRUSTS AND TRUSTEES §962 (1948).

53. In re *Reckford's Will*, 307 N. Y. 165, 120 N. E. 2d 696 (1954).