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**DIGEST OF OTHER RECENT VIRGINIA DECISIONS.****Supreme Court of Appeals.**

Note.—In this department we give the syllabus of every case decided by the Virginia Supreme Court of Appeals, except of such cases as are reported in full.

ARMENTROUT et al. *v.* ARMENTROUT'S EX'RS et al.

Nov. 16, 1911.

[72 S. E. 721.]

**1. Wills (§ 733\*)—Time of Accfual—Legacy Charged on Interest.**—Where testator left both real and personal property for his wife for life, with remainder to named children, and provided that they should pay certain sums to three other children, it being apparent that the life estate of the wife was not subject to payment of these sums, and that they were charged upon the estates in remainder, the legatees could not enforce payment until the remaindermen had come into possession; the value of the estate being subject to fluctuation, and the devisees being entitled to their election whether they would accept the gift burdened with the charge when the value of the estate is determinable.

[Ed. Note.—For other cases, see Wills, Cent. Dig. § 1843; Dec. Dig. § 733.\* 13 Va.-W. Va. Enc. Dig. 868; 14 Va.-W. Va. Enc. Dig. 1000.]

**2. Wills (§ 734\*)—Rights of Legatees—Interest on Legacy.**—A testator bequeathed both real and personal property to his wife for life, remainder over to named children; the remainder being charged with the payment of specific legacies to other children. Held that, while ordinary legacies are payable at the end of one year from the death of the testator, with interest from that date, the legacies charged on the remainder would not carry interest until the termination of the life estate, as it cannot be presumed that the testator intended those having the estate in remainder should pay interest upon the specific legacies before their remainder vested.

[Ed. Note.—For other cases, see Wills, Cent. Dig. §§ 1847-1872; Dec. Dig. § 734.\* 13 Va.-W. Va. Enc. Dig. 883.]

**3. Pleading (§ 218\*)—Demurrers—Ruling.**—Where a demurrer to a bill in equity was sustained upon a ground which went to the very foundation of complainant's case, the failure of the circuit court to pass upon other grounds of demurrer was not error.

[Ed. Note.—For other cases, see Pleading, Cent. Dig. §§ 549-566; Dec. Dig. § 218.\* 1 Va.-W. Va. Enc. Dig. 587; 4 Va.-W. Va. Enc. Dig. 497.]

**4. Executors and Administrators (§ 26\*)—Bond—Necessity—Pleading.**—Where those entitled to monetary legacies, made a charge

\*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.

upon an estate in remainder, filed a bill in equity seeking to compel the remaindermen to pay such legacies before the death of the life tenant, and the remaindermen were executors of the estate, a mere allegation that the executors had not been required to give bond and that complainants feared their rights might be impaired would not justify the court in exerting its powers to preserve the estate.

[Ed. Note.—For other cases, see Executors and Administrators, Dec. Dig. § 26.\* 5 Va.-W. Va. Enc. Dig. 624.]

Appeal from Circuit Court, Rockingham County.

Action by Henry A. Armentrout and others against Johnston P. Armentrout and another, as executors of the will of Augustine Armentrout, and others. From a decree for defendants, complainants appeal. Affirmed.

See, also, 111 Va. 348, 69 S. E. 333.

*John E. Roller*, for appellants.

*Charles D. Harrison*, for appellees.

LONG *v.* FLORY & GARBER.

Nov. 16, 1911.

[72 S. E. 723.]

**1. Brokers (§ 49\*)—Compensation—Sufficiency of Services.**—An agent for the sale of real estate at a fixed price can recover no commission where he has neither made an actual sale at the specified price nor procured a customer, ready and able to purchase at the sum named, unless it appear that the principal has wrongfully prevented a sale or has waived strict performance.

[Ed. Note.—For other cases, see Brokers, Cent. Dig. §§ 70-72; Dec. Dig. § 49.\* 2 Va.-W. Va. Enc. Dig. 638.]

**2. Brokers (§ 49\*)—Compensation—Wrongful Interference of Principal.**—Where an owner employs a broker for the sale of property at a stipulated price, but gives no exclusive right of sale, a later sale by the principal to a person in no way procured by the broker, without knowledge or belief that the purchaser was acting for a person whom the broker had interested in the purchase, is not such a wrongful interference with the broker as will entitle him to recover the agreed commission.

[Ed. Note.—For other cases, see Brokers, Cent. Dig. §§ 70-72; Dec. Dig. § 49.\* 2 Va.-W. Va. Enc. Dig. 640.]

Error to Circuit Court, Rockingham County.

Action by Flory & Garber against William C. Long. From a judgment for plaintiffs, defendant brings error. Reversed.

*Sipe & Harris*, for plaintiff in error.

*Ira S. Flory* and *Ed. C. Martz*, for defendant in error.

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\*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.