

NATIONAL ASSEMBLY
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1989, chapter 123

AN ACT RESPECTING THE WILLS OF CHARLES JODOIN AND SOPHRANIE BEAUCHAMP

Bill 275

Introduced by Mr Claude Filion, Member for Taillon

Introduced 5 June 1989

Passage in principle 21 June 1989

Passage 21 June 1989

Assented to 22 June 1989

Coming into force: 22 June 1989

Act amended: None



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CHAPTER 123

An Act respecting the wills of Charles Jodoin and Sophranie Beauchamp

[Assented to 22 June 1989]

Preamble

WHEREAS, by notarial deed of sale executed on 6 July 1988 and registered at the registry office of the registration division of Chambly under number 789197, 2620-0451 Québec Inc. acquired from 156282 Canada Inc. a part of lot number 27 of the official plan and book of reference of the cadastre for the village of Boucherville, described in the schedule;

Whereas 156282 Canada Inc. itself acquired the immovable from the successions of Charles Jodoin and Sophranie Beauchamp, by notarial deed of sale executed on 6 July 1988 and registered at the registry office of the registration division of Chambly under number 789196;

Whereas Sophranie Beauchamp and Charles Jodoin died respectively on 17 October 1918 and 21 December 1924, and whereas their wills and the codicil to the will of Charles Jodoin were registered at the registry office of the registration division of Chambly, at Longueuil, under numbers 55 985, 65 648 and 65 649 respectively;

Whereas Sophranie Beauchamp and Charles Jodoin married in 1861 under the regime of community of movables and conquests prescribed by the Coutume de Paris, and whereas the immovable, acquired with a larger area by Charles Jodoin in 1900, formed part of the community;

Whereas the wills of Sophranie Beauchamp and Charles Jodoin were composed in almost identical terms, whereas they instituted as residual legatees the six children born of their marriage, granting usufruct of the property so bequeathed to the surviving spouse and

subjecting the legacy of the children or their representatives to the condition that they did not seek to profit from a substitution supposedly made by Félix Beauchamp, the father of Sophranie Beauchamp;

Whereas, in his codicil, Charles Jodoin expressed the wish that one of the children of the couple should have the usufruct of an immovable described in the codicil which included the immovable contemplated by this Act, and whereas he subjected the rights of the other children or their representatives to a share of the residual legacy to the condition that they respect the codicil;

Whereas the wills of Sophranie Beauchamp and Charles Jodoin included a clause with respect to execution, whereas the executors appointed were the surviving spouse or, in the absence of a surviving spouse, Tancrede Jodoin, one of the children of the marriage, whereas the clause with respect to execution prescribed that the two executors should keep their executory powers beyond the year and a day fixed by law and for as long as the business of the succession so required, whereas it did not explicitly provide for the replacement of Tancrede Jodoin nor for the continuation of execution of the will independently of the legatees after his death, and whereas Tancrede Jodoin died on 10 September 1951;

Whereas the substitutions formed by the wills and a substitution formed by the child benefiting from the codicil on his share were opened at the latest on 10 April 1980 and whereas since such date, every major person who has a right to a share of the successions of Sophranie Beauchamp and Charles Jodoin could request the successions to be partitioned;

Whereas, however, on that date all the children and many of the grandchildren of Sophranie Beauchamp and Charles Jodoin were deceased, whereas the successions of several of them were not settled and whereas at the present time the successions of several descendants of Sophranie Beauchamp and Charles Jodoin are not settled;

Whereas, on 29 October 1987, Yves Jodoin, one of the descendants of Sophranie Beauchamp and Charles Jodoin, filed a petition in the Superior Court requesting that Raoul Jodoin, another descendant of the same two persons, and himself be appointed executors of the successions of Sophranie Beauchamp and Charles Jodoin;

Whereas, in the petition, Yves Jodoin put forward, in particular, that because of the difficulties of partitioning the succession, it would be convenient that such partition should concern a sum of money rather than an immovable, and whereas he requested in consequence that Raoul Jodoin and himself be authorized to sell, before a notary indicated in the petition, the immovable of the succession, part of lot 27 of the cadastre for the village of Boucherville, described in more detail in the petition;

Whereas, in the petition, Yves Jodoin also put forward that, following the expropriation of part of the immovable bequeathed by Sophranie Beauchamp and Charles Jodoin and given the relatively high price paid by the expropriator, the valuation of the remainder and, consequently, the property taxes were going to increase considerably, that the succession ran the risk of no longer being able to pay the taxes and, consequently, ran the risk of losing the immovable by sale to pay such taxes;

Whereas, with the authorization of the court, notice of the petition was served through the newspapers, whereas nobody opposed it, whereas it was granted on 16 November 1987 (record number 500-14-000 562-886 of the Superior Court for the district of Montréal) and whereas after verification of the value of the immovable contemplated by the petition, the court fixed a sale price of \$750 000;

Whereas, under the authority of the judgment, Yves Jodoin and Raoul Jodoin, declaring themselves to be acting in the capacity of testamentary executors of the successions of Sophranie Beauchamp and Charles Jodoin, sold before the notary indicated in the judgment the part of lot 27 of the cadastre for the village of Boucherville described in the judgment and contemplated by this Act, and whereas the sale price, paid in cash, was \$850 000;

Whereas there is a minor child among the persons concerned by the successions of Sophranie Beauchamp and Charles Jodoin, whereas this fact is not mentioned in the petition, but whereas the petitioner does not declare either that all the persons concerned are of age;

Whereas the Civil Code and the Code of Civil Procedure prescribe various formalities for sale by licitation of property and, in particular, of immovables of a succession when a minor child is concerned, whereas the petitioner had not asked the court to order the formalities to be carried out, whereas the court did not make such an order and whereas several of the formalities have not been carried out;

Whereas, among the formalities prescribed for the sale by licitation of immovables of a succession when a minor child is concerned, is the prior notice published in a newspaper in accordance with article 594 of the Code of Civil Procedure;

Whereas, however, a notice of putting up for sale was placed on the land in question and, following such publicity, eleven offers to purchase were submitted to the notary in charge of the sale;

Whereas the minor child concerned by the successions of Charles Jodoin and Sophranie Beauchamp will reach his majority on 21 July 1989;

Whereas in addition to the public notices prescribed by the Operating Rules of the National Assembly, the attorneys of 2620-0451 Québec Inc. gave special notice of their intention to request the passage of this Act to all persons with a right to a share of the successions of Sophranie Beauchamp and Charles Jodoin and to all the executors of successions of the descendants of those two persons that they were able to find, approximately 60 persons in all;

Whereas nobody opposed the passage of this Act;

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

Confirmation
of title

1. The title of 2620-0451 Québec Inc. to the part of lot 27 of the cadastre for the village of Boucherville described in the schedule to this Act, resulting from the deeds registered at the registry office of the registration division of Chambly, at Longueuil, under numbers 789196 and 789197 and in particular from the one registered first, is confirmed to the extent that it could be contested for all or some of the following reasons:

(1) it is not certain that Sophranie Beauchamp and Charles Jodoin manifestly intended that the execution and administration of their wills registered at the registry office of the registration division of Chambly under numbers 55 985 and 65 648 respectively should continue independently of the legatees after the death of Tancrede Jodoin;

(2) the wills of Sophranie Beauchamp and Charles Jodoin did not give the executors the seizin of the immovables or, moreover, the power to alienate them;

(3) it is not certain that, when it rendered judgment on the business bearing number 500-14-000 568-868 in records of the

Superior Court of the district of Montréal, the court had the power to authorize the executors to sell an immovable belonging to the successions in question;

(4) the petitioner supplied the court with the municipal valuation of the immovable contemplated by this Act for the current year but not for the five preceding years;

(5) the immovable had not been valued by an expert in accordance with articles 418 to 422 of the Code of Civil Procedure and the family council had not been called to give its opinion on the sale;

(6) the sale of the immovable by the executors had not been preceded by a notice in accordance with article 594 of the Code of Civil Procedure;

(7) the notary entrusted with the sale did not produce for the clerk the minutes of his proceedings and a copy of such minutes was not annexed to the minute of the deed of sale;

(8) the sale of the immovable contemplated by this Act was not carried out in accordance with the procedure prescribed for judicial sales.

Registration

2. Registration of a true copy of this Act shall be made by deposit.

Coming into
force

3. This Act comes into force on 22 June 1989.

SCHEDULE

(Section 1)

DESIGNATION

A vacant parcel of land located and situated in the municipality of the town of Boucherville, known and designated as follows:

A certain site forming part of lot TWENTY-SEVEN (27) of the official plan and book of reference of the cadastre for the village of Boucherville, registration division of Chambly, bounded as follows:

BOUNDED on the west by part of lot 27 (Marie-Victorin street) measuring a distance of two hundred and eighty-seven feet and four tenths (287.4 ft) to a point; thence, bounded on the north by part of lot 26 measuring a distance of forty-five feet and one tenth (45.1 ft)

to a point; thence, bounded on the northwest by part of lots 25 and 26 measuring a distance of one hundred and twenty-two feet and four tenths (122.4 ft) to a point; thence, bounded on the northeast by lots 1-2 to 1-19, 1-21, 1-22 and parts of lot 1-20 measuring a distance of nine hundred and ninety-three feet and eight tenths (993.8 ft) to a point; thence, bounded on the south by parts of lot 27 measuring a distance of one hundred and seventy-eight feet and two tenths (178.2 ft) to a point; thence, bounded on the south by lots 27-1-1, 27-1-2 and 27-3 measuring a distance of one hundred and seventy-nine feet and five tenths (179.5 ft) to a point; thence, bounded on the southeast by lot 28-1 measuring a distance of fifty-one feet and five tenths (51.5 ft) to a point; thence, bounded on the southeast by lots 28-1 and 28-2 measuring a distance of seventy-nine feet (79.0 ft) to a point; thence, bounded on the southwest by lot 28-2 measuring a distance of seventy-eight feet and four tenths (78.4 ft) to a point; thence, bounded on the southwest by part of lot 28 measuring a distance of seventy-four feet and three tenths (74.3 ft) to a point; thence, bounded on the southwest by lots 28-3-2-2 and 28-3-2-1 measuring a distance of two hundred and eighteen feet (218.0 ft) to a point; thence, bounded on the west by lot 27-2 measuring a distance of eighty-four feet (84.0 ft) to a point; thence, bounded on the south by lot 27-2 measuring a distance of twenty-three feet and eight tenths (23.8 ft) to a point; thence, bounded on the west by part of lot 27 measuring a distance of eighty-two feet (82.0 ft) to a point; thence, bounded on the south by part of lot 27 measuring a distance of one hundred and one feet and seven tenths (101.7 ft) to the starting point.

THE SAID site containing an area of three hundred and nine thousand square feet and nine hundred and seventy-nine hundredths (309,979.0 sq ft), English measure.

THE WHOLE being without buildings, subject to all active and passive servitudes, apparent or unapparent, which may affect such immovable.

The immovable described above is shown on the plan prepared by Michel Verville, land surveyor, on 7 August 1987 and bearing number V-1506 in his minutes.