

Indian Succession Act, 1925

Chapter 8 - Of the Vesting of Legacies

Where by the terms of a bequest the legatee is not entitled to immediate possession of the thing bequeathed, a right to receive it at the proper time shall, unless a contrary intention appears by the will, become vested in the legatee on the testator's death, and shall pass to the legatee's representatives if he dies before that time and without having received the legacy, and in such cases the legacy is from the testator's death said to be vested in interest.

Explanation. An intention that a legacy to any person shall not become vested in interest in him is not to be inferred merely from a provision whereby the payment or possession of the thing bequeathed is postponed, or whereby a prior interest therein is bequeathed to some other person, or whereby the income arising from the fund bequeathed is directed to be accumulated until the time of payment arrives, or from a provision that, if a particular event shall happen, the legacy shall go over to another person.

Illustrations

- (i) A bequeaths to B 100 rupees, to be paid to him at the death of C. On A's death the legacy becomes vested in interest in B, and if he dies before C, his representatives are entitled to the legacy.
- (ii) A bequeaths to B 100 rupees, to be paid to him upon his attaining the age of 18. On A's death the legacy becomes vested in interest in B.
- (iii) A fund is bequeathed to A for life, and after his death to B. On the testator's death the legacy to B becomes vested in interest in B.
- (iv) A fund is bequeathed to A until B attains the age of 18 and then to B. The legacy to B is vested in interest from the testator's death.
- (v) A bequeaths the whole of his property to B upon trust to pay certain debts out of the income and then to make over the fund to C. At A's death the gift to C becomes vested in interest in him.
- (vi) A fund is bequeathed to A, B and C in equal shares to be paid to them on their attaining the age of 18, respectively, with a proviso that, if all of them die under the age of 18, the legacy shall devolve upon D. On the death of the testator, the shares vested in interest in A, B and C, subject to be divested in case A, B and C shall all die under 18 and, upon the death of any of them (except the last survivor) under the age of 18, his vested interest passes, so subject, to his representatives.

Section 120 - Date of vesting when legacy contingent upon specified uncertain event

- (1) A legacy bequeathed in case a specified uncertain event shall happen does not vest until that event happens.
- (2) A legacy bequeathed in case a specified uncertain event shall not happen does not vest until the happening of that event becomes impossible.
- (3) In either case, until the condition has been fulfilled, the interest of the legatee is called contingent.

Exception. Where a fund is bequeathed to any person upon his attaining a particular age, and the will also gives to him absolutely the income to arise from the fund before he reaches that age, or directs the income, or so much of it as may be necessary, to be applied for his benefit, the bequest of the fund is not contingent.

Illustration

- (i) A legacy is bequeathed to D in case A, B and C shall all die under the age of 18. D has a contingent interest in the legacy until A, B and C all die under 18, or one of them attains that age.
- (ii) A sum of money is bequeathed to A "in case he shall attain the age of 18", or "when he shall attain the age of 18". A's interest in the legacy is contingent until the condition is fulfilled by his attaining that age.
- (iii) An estate is bequeathed to A for life, and after his death to B if B shall then be living; but if B shall not be then living to C. A, B and C survive the testator. B and C each take a contingent interest in the estate until the event which is to vest it in one or in the other has happened.
- (iv) An estate is bequeathed as in the case last supposed. B dies in the lifetime of A and C. Upon the death of B, C acquires a vested right to obtain possession of the estate upon A's death.
- (v) A legacy is bequeathed to A when he shall attain the age of 18, or shall marry under that age with the consent of B, with a proviso that if she neither attains 18 nor marries under that age with B's consent, the legacy shall go to C. A and C each take a contingent interest in the legacy. A attains the age of 18. A becomes absolutely entitled to the legacy although she may have married under 18 without the consent of B.
- (vi) An estate is bequeathed to A until he shall marry and after that event to B. B's interest in the bequest is contingent until the condition is fulfilled by A's marrying.
- (vii) An estate is bequeathed to A until he shall take advantage of any law for the relief of insolvent debtors, and after that event to B. B's interest in the bequest is contingent until A takes advantage of such a law.
- (viii) An estate is bequeathed to A if he shall pay 500 rupees to B. A's interest in the bequest is contingent until he has paid 500 rupees to B.
- (ix) A leaves his farm of Sultanpur Khurd to B, if B shall convey his own farm of Sultanpur Buzurg to C. B's interest in the bequest is contingent until he has conveyed the latter farm to C.
- (x) A fund is bequeathed to A if B shall not marry C within five years after the testator's death. A's interest in the legacy is contingent until the condition is fulfilled by the expiration of the five years without B's having married C, or by the occurrence within that period of an event which makes the fulfillment of the condition impossible.
- (xi) A fund is bequeathed to A if B shall not make any provision for him by will. The legacy is contingent until B's death.
- (xii) A bequeaths of B 500 rupees a year upon his attaining the age of 18, and directs that the interest, or a competent part thereof, shall be applied for his benefit until he reaches that age. The legacy is vested.
- (xiii) A bequeaths to B 500 rupees when he shall attain the age of 18 and directs that a certain sum, out of another fund, shall be applied for his maintenance until he arrives at that age. The legacy is contingent.

Section 121 - Vesting of interest in bequest to such members of a class as shall have attained particular age

Where a bequest is made only to such members of a class as shall have attained a particular age, a person who has not attained that age cannot have a vested interest in the legacy.

Illustration

A fund is bequeathed to such of the children of A as shall attain the age of 18, with a direction that, while any child of A shall be under the age of 18, the income of the share, to which it may be presumed he will be eventually entitled, shall be applied for his maintenance and education. No child

of A who is under the age of 18 has a vested interest in the bequest.