

John Van Cortlandt Esq.^r late of the City of New York Esq.^r in &
by his last Will & Testament duly proved amongst other things
did devise & bequeath as follows. viz. Item I do give devise & bequeath
unto my son John all my undivided land in the Mannor of Cortlandt
County of Westchester & in the County of Dutchess, Item all the real
residue & remainder of my Estate both Real & Personal. I do give devise
& bequeath unto my Wife during her widowhood & my son John my
Daughter Elizabeth Guttery & Daughter Hanna & my grand children
John & Angelica & their Heirs & Assigns.

After the decease of the testator the devise John Van Cortlandt sold part
of the said Lands in fee simple & gave deeds with Covenants of warranty
after which he died.

What estate did John Van Cortlandt take by the said devise in the Lands
in the Mannor of Cortlandt County of Westchester & Dutchess.

If not an Estate in fee simple to whom does it go & what remedy have
they to recover the lands so sold.

I am clearly of Opinion that Mr John
Van Cortlandt under the aforesaid devise took only an Estate for life in the lands
mentioned in the said devise & that after this devise the same would
go to those to whom the rest & residue of his estate was devised, that the
persons so entitled can recover the lands in whose possession or power
they may be & the Purchasers must have their remedy against the Heirs

John McCalland on the covenants of warranty contained in their
respective deeds & that they ought to take possession of their
portion of those lands not sold without delay & bring their
actions of Ejectment against the persons holding the lands
sold without losing further time, that the purchasers may
make their remedy.

Wm. P. Boudinot
16 Oct. 1811

John Phillip McCalland in his life time held certain plantations
in the manner of joint tenants as a tenant in common with his
sister, Hannah, some of which he sold & obtained her signature
to the deeds, but received the whole consideration money, which was
applied to his exclusive use & benefit.

Can the Executor of Hannah McCalland
recover against the Executor of Phillip McCalland the Moneys received
by him.

There is no doubt in my opinion that an action
by the Ex. of Hannah McCalland against the Estate of Phillip Mc
Calland will be for the recovery of those Moneys rec^d by the Ex.
in his life time in trust for his Sister & that the Statute of
Limitations will not affect the action, & will being excluded.

Wm. P. Boudinot

Copy of Opinion of
D. P. B. 1872