TRICE *v.* MILLER.

4-9187 229 S. W. 2d 233

Opinion delivered May 1, 1950.

1. ESTATES—ANCESTRAL ESTATE.—Land acquired by woman through devise in her father's will is ancestral estate.
2. DESCENT AND DISTRIBUTION—MARRIED WOMEN—ANCESTRAL ESTATE. —When a married woman dies childless leaving ancestral estate undisposed of by will, her surviving husband's interest is limited to a one-third interest for life. (Ark. Stats., § 61-228.)

Appeal from Lee Chancery Court; *A. L. Hutchins,* Chancellor; reversed and remanded.

Hal B. Mixon, for appellant.

LEFLAR, J. Mrs. Charley Miller died childless, without a will, owning 50 acres of land which had been devised to her by her father's will. She left surviving her a husband, appellee Charley Miller, and blood relatives among whom are the appellants here. Charley Miller is in possession of the 50 acres. Appellants brought suit for a partition of the land. At the trial the Chancellor held that Charley Miller "is vested with a right of possession of the entire tract for his natural life by virtue of his homestead interest." Appellants contend this was error.

The land in question, having come to Mrs. Miller by devise from her father, was ancestral estate. *Oliver* v. *Vance,* 34 Ark. 564; *Hofstatter* v. *Bona,* 205 Ark. 729, 170 S. W. 2d 1016. The relevant law as to a husband's interest in his wife's ancestral lands appears in Ark. Stats., § 61-228: "Upon the death of a married woman, her husband shall be entitled to the following portion of her estate, undisposed of by her will: . . . where she leaves no descendants, as to the lands in which her estate is ancestral the husband shall be entitled to one-third of her real property for life. . . ." Our law gives the husband no additional right of homestead in his wife's lands. See Ark. Const., Art. IX, §§ 6, 10; Ark. Stats., § 62-601, *et seq.* His right in her ancestral lands is a one-third interest for his life.

Reversed and remanded.