ACPNS LEGAL CASE REPORTS SERIES

This series compiles short summaries of significant cases involving charitable, philanthropic, nonprofit and social enterprise organisations in Australia and overseas.

ROYAL COMMONWEALTH SOCIETY FOR THE BLIND v BEASANT AND DAVIES [2021] EWHC 2315

England and Wales High Court, Master Schuman, 17 August 2021

Interpretation of a gift in a will to 21 residuary charity beneficiaries

Key words: Will, England and Wales, Charity, Gift, Residuary, Inheritance Tax

1. Audrey Thelma Anita Arkell (the deceased) died on 17 August 2017, leaving an estate with a net probate value before inheritance tax of £3,127,174. The claimant was one of 21 residuary beneficiaries which were all charities. The defendants were the executors and trustees under the will. In addition, the first defendant was the named beneficiary of legacies and a specific devise, and the second defendant was the solicitor who drafted the will.

2. The dispute turned on clause 4 in the deceased's will, which read:

> 4 I GIVE the Nil-Rate Sum to my trustees on trust for my said friend, JOHN WAYLAND BEASANT.
> 4.1 In this clause 'the nil-rate sum' means the largest sum of cash which could be given on the trusts of this clause without any inheritance tax becoming due in respect of the transfer of the value of my estate which I am deemed to make immediately before my death.

3. The deceased also left Mr Beasant an apartment valued at £240,000, shares worth £218,256, and personal items valued at £1,390, all free of tax. She gave legacies totalling £45,000 to other friends and relations, and left the rest of her estate equally between 21 charities.

4. The nil-rate band (the threshold above which inheritance tax becomes due in the UK) is £325,000. Mr Beasant claimed clause 4 of the will meant that he was entitled to a further £325,000 over what he had already inherited, again free of tax. However, the total value of the gifts to Mr Beasant and the other named friends and relations was £504,646. The inheritance tax due on those gifts was paid out of the deceased's residuary estate.

5. The Royal Commonwealth Society for the Blind (also called Sightsavers), representing the 21 residuary charity beneficiaries, contended that the words 'largest sum … which could be given … without any inheritance tax becoming due' meant that Mr Beasant was only entitled to a further benefit if the value of the gifts already given fell below the inheritance tax threshold.

6. Mr Beasant argued that sub-clause 4.1 should be ignored as 'unnecessary'. He submitted that its inclusion indicated that the deceased did intend to give him a further benefit under clause 4. He also contended that there was a presumption that a testator intended to benefit friends and family in priority to any residuary charity beneficiaries.

7. The Court rejected those arguments, finding that if the deceased had intended to give another £325,000 free of inheritance tax to Mr Beasant it would have been simple matter to draft such a gift clearly in the will. The clause in question clearly contemplated that the nil rate sum was to be calculated having regard to the whole of the deceased's estate. The words limiting the gift to the amount that could be given without inheritance tax becoming payable could not be ignored, because to do so would do 'considerable violence to the language of the will' (at [43]).

8. Therefore, the charities were successful in their claim.

IMPLICATIONS

The case is similar to the Court of Appeal's unanimous finding in RSPCA v Sharp [2010] EWCA Civ 1474, in which the RSPCA successfully argued that the testator in that case did not intend to increase the gifts he had left to his brother and friends beyond £300,000 each (below the inheritance tax threshold). They wanted to increase the value of their legacies from £300,000 to £469,000, which would have triggered an inheritance tax liability of £112,000 payable out of the RSPCA's share.

This case was very comparable, in that the defendant wanted to further increase his share of the estate beyond the inheritance tax trigger, which meant that extra tax would have had to be paid from the residuary charity beneficiaries' share. The Court interpreted the will strictly, so that the 21 charity beneficiaries benefited, in that a further amount of inheritance tax, beyond that which had already been paid from the residuary, did not become payable.

VIEW THE CASE

This case may be viewed at https://www.bailii.org/cgi-bin/format.cgi?doc=/ew/cases/EWHC/Ch/2021/2315.html

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