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.

Morris v Fuirer [2021] EWHC 3566 (Ch)

England and Wales High Court, Chancery Division, Deputy Master Lampert, 25 January 2022

Whether the last will of the deceased, leaving the residuary to charities, was valid.

Key words: Will, England and Wales, Validity, Charitable Bequests, Capacity, Knowledge and Approval, Undue Influence, Fraudulent Calumny

1. The deceased, Cynthia Morris, died on 7 August 2017 leaving a last will dated 14 July 2010. Mrs Morris had made two prior wills on 28 November 2006 and 25 October 2000.

2. The claimant in this case was the deceased's only son who was the principal beneficiary under the will dated 25 October 2000, but not under the later wills. The claimant disputed the validity of the 2006 and 2010 Wills.

3. The charity beneficiaries under the 2010 will, Age UK, Hope for Children, Become and The Salvation Army, applied for reverse summary judgement and dismissal of the claim.

4. Summary judgement is given when there is no real prospect of succeeding on the claim and there is no other compelling reason why the claim should be disposed of at trial.

5. There was no dispute that the 2006 and 2010 wills were duly executed. Rather, the claimant, who was self-represented, contended that those wills were made without full capacity. In response to evidence showing that capacity was present, the claimant argued lack of knowledge or approval and undue influence or fraudulent calumny.

6. The Court found that the evidence was clear that capacity was not in doubt. In addition, knowledge and approval were not absent, and the claimant could not discharge the heavy onus of proof in relation to undue influence and fraudulent calumny. Indeed, the court said that the accusations about these matters were "so fanciful that they should never have been made" (at [77]).

7. Therefore, as the claim was held to be "totally without merit" (at [92]), the charities' application was granted and the claim was dismissed. The result was that the charity beneficiaries shared the entire residuary of the estate.

IMPLICATIONS

This was a case where the will maker changed her mind about leaving the residuary of her estate to her son. After the 2000 will was made, the will maker and her son became totally estranged, and the will maker altered her will to leave the residuary of her estate to charities. Her son had already benefited from his mother's largesse by the gift of a substantial home, and was left a pecuniary legacy of £35,000 in the 2010 will.

The claimant's case was not made easier by his being self-represented, and the framing of his claims was notably different in quality to that of the other parties, including the charities, who were professionally represented. Nevertheless, although decided entirely on the papers because of COVID 19, the Court had no difficulty in finding that the claimant's contentions were "wholly unjustified" (at [92]).

VIEW THE CASE

This case may be viewed at https://www.bailii.org/ew/cases/EWHC/Ch/2021/3566.html

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