

Arguing over (spilt) milk: another proprietary estoppel claim down on the farm

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In a very recent decision *Habberfield v Habberfield*, the court awarded a farmer's daughter a significant cash sum in lieu of the farm to which she had devoted her entire working life. At first glance, it appears that claimants in typical farming cases may take comfort from this judgment. But, as with other recent decisions, it is clear that cases turn on the evidence, making it difficult to predict the outcome.

Facts

The claimant, Lucy Habberfield, was the youngest of four children. In 1983 (aged 16) she left school and started working on the family farm, Woodrow. Lucy was a dairy farmer and with her efforts the dairy farm *'quickly became the cornerstone of the business'*. At first, she was paid only £40 a week and was working 60 to 70 hours a week.

Woodrow was held in a partnership between Lucy's parents, Frank and Jane.

In 1998, Lucy met her partner, Stuart, and they started a family. Lucy's hours reduced but she was still back at work within 10 days of giving birth. In 1999, Stuart began working on the farm and by 2007 was working full time at Woodrow.

By 2007, Frank's health had deteriorated, and Lucy and Stuart were in sole charge of the dairy farm.

In 2008, Frank and Jane met with a chartered surveyor to discuss the future for Woodrow. Frank and Jane proposed that Lucy become a joint partner with them. Stuart would be considered for partnership after two years. Lucy rejected the proposal on the basis that she would only have a third share of the partnership. She perceived her parents to be under the control of her siblings (with whom she did not get on). Also, it did not provide Stuart with an immediate partnership interest. Despite rejecting the proposal, Lucy and Stuart continued to work at Woodrow, doing the same long hours for low wages.

Finally, in November 2013, Lucy and Stuart stopped work at Woodrow following a fight with Lucy's sister. Subsequently, Lucy's sister managed the dairy farm.

In April 2014, Frank died. Jane became the sole owner of Woodrow.

Dairy farming ceased at Woodrow in 2015.

The claim

Lucy brought a proprietary estoppel claim for the whole farm, valued at £2,550,000.

Proprietary estoppel requires *'a representation or assurance made to the claimant, reliance on it by the claimant, and detriment to the claimant in consequence of his (reasonable) reliance'*.

Lucy said that when she would complain of low wages and long hours, her father would tell her that she would take over the farm when he was no longer able to do so. She recounted him saying *'they are your cows, and if you want them you should milk them'* and, when she asked for time off, *'they may not be here when you get back'*. She also recounted her mother saying *'you cannot have the benefit of your hard work both now and in the future'* and *'you are working for the benefit of your children'*.

Jane denied that Frank made such assurances and, even if he did, he could not bind her as joint owner of the farming partnership. She denied making any assurances herself.

The judge heard several witnesses for both sides, the most important being Lucy and Jane. The judge found Lucy to be *'thoroughly honest'* and Jane to have sought *'to avoid the issue and close down an awkward line of questioning'* by saying that she could not remember key events.

The judge concluded that Frank and Jane had made the alleged assurances, although they did not necessarily apply to the whole of Woodrow. He found they had made a *'coherent promise'* that Lucy would inherit *'a viable dairy farm at Woodrow'*.

As to detriment, he concluded that Lucy had worked long hours with few holidays, was paid less than she could have reasonably expected and had continued to work in this way for just under 30 years.

Therefore the judge concluded that Lucy had proved a proprietary estoppel.

Award

The judge carefully considered whether he should be:

- giving effect to Lucy's expectation, ie awarding her a viable dairy farm at Woodrow; or
- compensating Lucy for her detriment, ie awarding her the difference between the wages/benefits she could have received working at another farm and the wages/benefits she did receive (because Lucy was committed to a career in dairy farming, earning capacity at another farm was the appropriate yard-stick, whereas in other cases claimants have been able to say that their career suffered because they were held back as a result of the alleged promises).

There was a significant difference between the two approaches. The viable dairy farm at Woodrow was valued at £1,600,000. The difference between Lucy's actual earnings and what she might have achieved at another farm was approximately £220,000.

The judge considered whether assurances and reliance were akin to a contract, ie if you do what is being asked of you then you should get what was promised, irrespective of proportionality. He considered whether there was a sliding scale based on the clarity of the assurances, the extent of the detriment and the length of time the expectation was reasonably held.

He concluded that it would not be equitable to only compensate Lucy for her detriment. He therefore used the value of a viable dairy farm as his starting point.

But, much to Lucy's disappointment, the judge decided to make a reduction to take account of her rejecting the *'genuine attempt by Lucy's parents to resolve the issue of succession'* (the 2008 proposal) and her resignation from the farm in 2013. He awarded Lucy a cash payment equal to the value of the land and farm buildings at Woodrow, excluding the farmhouse and a separate piece of land which was not a necessary part of the dairy farm. Based on a 2017 valuation, the award amounted to £1,170,000.

So it seems that proprietary estoppel does not give the certainty of a contract, but in cases such as this, where the detriment is significant and continued for many years, a claimant can come away with close to what they were promised.

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