

Inheritance dispute - disinherited daughters say 'me too' successfully

26 MARCH 2019

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A recent inheritance court battle pitted most of Mrs Chin's five daughters against father, brother and nephew. The daughters challenged a purported will leaving everything to their brother, and the transfer of a property to their nephew four years before their mother passed away. Their brother challenged an earlier will benefitting his sisters.

Essential facts

Mrs Chin was born in 1934. She married Mr Chin aged 20. In 1965 the family, including their first daughter Ivy, moved to the UK. She never became proficient in English.

Over the years they built a takeaway business and acquired properties.

As each daughter married, their father insisted she 'left the family' and became part of her husband's family in accordance with Chinese tradition.

He focussed on their only son Winston, to whom he transferred business assets. Mrs Chin became less comfortable with excluding her daughters from any inheritance and Ivy arranged for her to meet a solicitor in 2009. The upshot was a will, which a son-in-law informally translated into Cantonese, gifting her share of a property in Southend-on-Sea to her five daughters.

It appears that relations between Winston and some of his sisters deteriorated, as did their mother's health.

In 2011 Mrs Chin was taken to see another solicitor and executed a Will revoking her 2009 Will and leaving all her estate to Winston. She also signed a statement stating that she had made no provision for her daughters '*as they pressurised me to sign two legal documents ... although I did not fully understand the contents of these...*'

Winston took his parents to his own solicitor and gave instructions that his mother wanted to make a gift of her share of the property to Winston's son. The solicitors made some effort to be satisfied Mrs Chin did not want independent advice. She signed documents transferring the property to her grandson.

Following their mother's death, some of the daughters challenged the 2011 Will on two grounds (i) want of knowledge and approval, and (ii) undue influence.

In turn Winston challenged the 2009 Will alleging want of knowledge and approval.

Legal issues

Where a beneficiary is involved in the Will, they must displace any suspicion and show that the testator did '*know and approve its contents*'. Two daughters and their husbands were involved. But the Judge decided that Mrs Chin did know and approve the 2009 Will.

In contrast he held that Mrs Chin had not known and approved the 2011 Will. Significantly all the documents Mrs Chin signed then were in English. But also the Judge felt the reasons given for excluding the daughters were simply untrue.

The Judge went further and determined that Mr Chin had put such pressure on his wife to leave her share '*to the male line*' that persuasion had

crossed the line. He described her as having been '*worn down ... to such an extent that the 2011 Will represented her husband's wishes and not her own*'. So he also struck the 2011 Will down for undue influence.

Challenging the property transfer as well

That would have proved a pyrrhic victory if the property transfer to Winston's son stood. So the Judge went on to determine whether the property transfer was the result of undue influence as well.

It was. The lack of truly independent advice was fatal to the grandson's case and the property restored to her estate – meaning the daughters benefit under their mother's 2009 Will.

Lessons

It remains difficult to challenge a professionally drafted will. So, if there is a lesson, it is perhaps that going too far to secure 'your' inheritance may damage your credibility so that the Court draws adverse inferences down the line. More measured conduct on Winston's part might have made it very difficult for his sisters to succeed.

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