

Widow's tense relationship with trustee were not grounds for reasonable provision claim, finds EWHC

Synopsis: A challenge by a widow on her husband's Will, on the grounds that it left her only a life interest that could be terminated at any time by the trustees, has been dismissed by the England and Wales High Court (EWHC).

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This case is about the Will of Christopher Ramus, who died in June 2020 leaving an estate of approximately £1 million. He and his wife were in the process of separating and divorcing after a long marriage.

In his Will, he gave a life interest to his wife with the trustees having the power to allocate her capital should she need it. However, the trustees were also given the power to terminate the life interest should they decide that she did not need the income.

Subject to the life interest, the trust fund was to be held on a flexible discretionary trust for their children and remoter issue together with Mrs Ramus unless the trustees decided to exclude her.

In a letter of wishes Christopher asked the trustees not to give her capital, but stated that his wife should continue to receive income until she remarried, cohabited with another or until the trustees decided she did not need the income.

The issue in this case was the relationship between Mrs Ramus and one of the trustees, Claire Holt, who is the daughter of Mrs Ramus. In recent years, the relationship between them had become difficult and one which led to Mrs Ramus deciding to divorce Mr Ramus.

Mrs Ramus was so concerned that the Trustees had the ultimate power to terminate her life interest that she made an application to the Court under the Inheritance (Provision for Family and Dependants) Act 1975. She based this on the belief that her husband did not make reasonable financial provision for her, as the trustees could stop the income at any time and refuse to advance capital.

She was looking for the removal of Claire as a trustee, stating this would be an appropriate resolution.

The (EWHC) judge decided that *"reasonable financial provision from the estate of the deceased does not become unreasonable financial provision because of the identity of the trustees"*.

In addition, as Claire is one of three trustees, she would not have the sole power to terminate the life interest and that there would have to be unanimous agreement before the trustees could exercise this power.

The judge also pointed out that he had no jurisdiction under the Inheritance (Provision for Family and Dependants) Act 1975 to remove trustees.

Comment

Individuals ought to be very careful about who they ask to act as a trustee, either under their Will or by trusts made in their lifetime. The removal of trustees can be particularly tricky.

As can be seen by this case, the Inheritance (Provision for Family and Dependants) Act 1975 is usually used to ensure reasonable provision is made for dependents. Where an individual wants to remove trustees, this is usually either contained within the provisions of the trust or by referral to the Trustee Act 1925.

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