

Court dismisses appeal in farming dispute



In April last year the son of a farmer brought a claim against his parents for a share of the family farm following a breakdown in family relations. The court found that numerous promises had been made to the son by his parents that he would inherit a proportion of the farm and that the son had worked to his detriment (for over 30 years for low pay) in reliance on these reassurances. The court considered it unconscionable for the parents to withdraw these promises and it awarded a percentage share of the farm property and business to the son, which meant that the farm would need to be sold. The son was awarded 50% of the farming business and 40% of the value of the buildings.

The parents recently appealed the decision and, in particular, the remedy. They ran a number of arguments, including that the judge should have asked what an objective bystander in the shoes of the parents would have intended when making the promises to avoid an unconscionable result and also that the judge should have decided a remedy which was based on the increased value of the farm as a result of the son's input (as opposed to the entire value of the farm).

The court dismissed the appeal and found that, to consider the position solely through the owner's eyes would risk skewing the exercise in a way that is not supported by authority. Instead, the court must consider all of the circumstances, including the expectations and detriment to the claimant. The court also found that compensating solely on the increase in value to the farm as a result of the son's input would have failed to take into account the nature of the assurance but instead would have focussed solely on what the parents had gained as a result of promising something which was not subsequently delivered. The first instance judge had found the relevant components to a proprietary estoppel claim were met; assurances were made by the parents, these were relied upon to the detriment of the son and the parents had acted unconscionably in subsequently withdrawing that assurance. It was held that the judge was entitled to take the son's expectation as a strong factor in deciding how



to quantify the award.



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