

Definition of ‘nephews and nieces’ in a Will



In the recent High Court case of *Wales v Dixon and others* [2020] the Deceased left his residuary estate to ‘such all of my nephews and nieces children living at my death’. The court considered whether this included nephews and nieces by marriage (in other words the children of the deceased’s spouse’s siblings) or just nephews and nieces by blood (in other words the children of the deceased’s siblings).

The court applied principles laid down by a 2014 case as to the steps that should be taken when interpreting Wills where there is ambiguity as to the language used (which includes considering evidence as well as surrounding circumstances to assist in understanding the meaning of words used, in certain circumstances) and a 1944 case which stated that “there seems no doubt at all that the strict and proper meaning of the word “nephew” is “son of a brother or sister”; and, similarly, “niece” means, in the strict sense, “daughter of a brother or sister”. But the meaning of each of these words is, in my judgment, susceptible of extension, having regard to the context and circumstance of the case, in two directions” one of which is the child of a brother-in-law or sister-in-law.

In this case the court considered the surrounding circumstances were such that the Deceased intended to include nephews and nieces by blood and by marriage. These surrounding circumstances included the content of prior wills of the Deceased and his spouse, the length of their marriage, the fact that one spouse’s estate passed to the other, the absence of any evidence as to why the Deceased might have wanted to exclude his spouse’s family and continuing contact with relevant family members.

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