



Worthless Arguments

It never ceases to amaze what people are prepared to argue about; thank goodness I suppose.

A recent case in the Supreme Court demonstrates the lengths to which people in dispute will go, and the amount of Court time and legal costs that are spent arguing about what is objectively not important and perhaps trivial. That however is the very nature of human beings in dispute. For some reason these disputes seem to become particularly vitriolic and prolonged when they relate to the property of someone who has died.

The dispute in question involved the alleged ownership and value of jewellery that at some stage belonged to the deceased. There was no satisfactory evidence before the court identifying all of the jewellery in question and nor was there satisfactory evidence, beyond assertion, as to the value of the jewellery. The executors of the deceased asserted that the jewellery had a value of \$30,000 and that the jewellery had been entrusted to Ms Tina Carter during the deceased's lifetime. The executors informed the Court that they had administered the estate and distributed the deceased's assets on the basis that Ms Carter was in possession of the jewellery, having a value of \$30,000. Ms Carter on the other hand asserted that some jewellery had been gifted to her by the deceased and that the jewellery that had been gifted to her was worth \$6,685. She alleged that the executors remained in possession of significant quantities of jewellery. Alternately she claimed that the executors had not distributed to her an amount of 30% of the deceased's estate, as they had been directed by the deceased's will.

The Court received evidence showing that the executors remained in possession of an amount of \$45,000, the entire estate being worth about \$137,000. The executors claimed that the jewellery entrusted by the deceased to Ms Carter properly represented her 30% share of the deceased's estate.

The Judge deciding the case commented that it was most unfortunate that such a small estate had become the subject of such a considerable dispute. He did however acknowledge that the case involved perceived matters of principle as being in issue and that the possession of the jewellery was genuinely in dispute.

The Judge ruled that there was insufficient evidence to establish that any jewellery in the possession of Ms Carter had been the subject of a gift by the deceased. He said on the other hand there was no evidence that any particular item of jewellery owned by the deceased was in Ms Carter's possession. In circumstances where the evidence is so unsatisfactory, cases are usually dismissed. Surprisingly the Judge ordered the executors to pay Ms Carter \$30,000 and pay her costs of the proceedings but then put those orders on

hold and gave the executors a chance to produce further evidence as to the question of ownership possession and value of the jewellery of the deceased.

Judges are often criticised for being aloof, detached and uncaring about how their decisions effect the people involved in disputes. Those criticisms could not be levelled at the Judge deciding this case. In my view this is one dispute where the Judge would have been more than within his rights to send everybody packing – with no more than a tin ring as it were.