

Wills and the economy

One aspect of the economic downturn, easily overlooked, is the effect on our wills.

The terms of a will are not set in stone! In fact, wise testators take a regular look at their wills to ensure that the terms are still acceptable and relevant to their current circumstances. Changes are sometimes required to executors, beneficiaries and to the disposing of property. Even outside influences and circumstances can alert a testator to make changes. Take for example the economic downturn.

Some years ago a mother gave her estate by will equally to her two adult sons: a \$1 million property to one son and her \$1 million share portfolio to the other son. The mother died last month, and the value of the shareholding had reduced by about 50 per cent. The mother's intention of equal gifts was not fulfilled.

The lesson: regularly check your will and check the value of the gifts – a change in circumstances may require a re-thinking of your will.

ABOUT US

At msl we work closely with other professional advisers, such as accountants, property valuers and financial advisers to ensure the best possible results for our client's long-term future.

Our interest is on minimising fees and taxes that may be deducted from an estate, that assets are effectively managed if a person is incapacitated in any way, and that medical decisions, property and investments are properly handled.

Our support extends to all levels of estate planning, structures and family asset protection, including commercial business interests.

Court approves will

The April 2006 amendments to the Succession Act 1981 allow the court to authorise the will of an incapacitated person.

In a recent case, the mother applied for the approval of a will for her 31 year old daughter who had sustained a brain injury in October 1998. The father, divorced from the mother, did not consent to the mother's application to the court. If the daughter died without a will, the estate, currently worth \$1 million, would be shared equally by the parents under the law of intestacy. The father had lived overseas since 2000 and had infrequent contact with his daughter. The Supreme Court of Queensland authorised the terms of the will which gave the estate to the mother except for a \$5,000 gift to a charity. *Deecke v Deecke* [2009] QSC 65.

It is helpful to be aware that an incapacitated person can have a will approved by the court.

For more information please contact msl on 07 5597 8888 or info@mslawyers.com.au or visit our website www.mslawyers.com.au

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