

A Case of Undue Influence

A Will gives a person the opportunity to say how they want their money, property and possessions to be distributed after their death. The people that receive a gift under a Will are defined in the Will and defined in law as “beneficiaries”. Sometimes people who might have expected to be a beneficiary under a person’s Will find, once the Will is read, that they have not been provided for. If this happens, the Will may not be the final word. For example, if someone can prove that the deceased did not have the mental capacity to create a Will.

There are also sometimes grounds to challenge a Will if it is unreasonable under the Inheritance (Provision for Family and Dependants) Act 1975. Where it is found that another person unreasonably pressurised someone to make a Will in their favour it is also possible to challenge the Will. An example of such a case is the *Schomberg v Taylor* case. Mrs Taylor made a Will in December 2008 leaving the majority of her estate to her nephews, and making only small gifts to her two step sons. In 2005, she had made a Will that favoured the two step sons. Her two stepsons wanted the court to confirm that the Will made in 2005 should be affective. Evidence was produced, including evidence to show that the nephew’s father had persistently called Mrs Taylor to ask that she change her Will, to the point that she had asked a carer to stop putting his calls through.

The court found that Mrs Taylor was vulnerable at this time, as her husband had recently died. The court found that, on the balance of probabilities, Mrs Taylor had been placed under undue influence to change her Will. The nephew’s father had motive for doing this because he was in financial difficulties and wanted to benefit from his children’s inheritance. There was no obvious reason why Mrs Taylor would provide for the stepsons in the 2005 Will and then virtually disinherit them in the 2008 Will. The court declared the 2008 Will invalid and, as a consequence, the 2005 Will stands as a true representation of Mrs Taylor’s wishes.

At Anthony Gold, we have experts that can help, both in the preparation of Wills and also if you believe that you could have grounds to challenge a Will. If you wish to speak with us to explore your options please call on 020 7940 4060.

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