**Putting out your hand, without more, is not enough for family provision**

The deceased died in 2016 aged 76 years survived by his widow and two adult sons and 6 grandchildren. The deceased made a Will on the day he died leaving his widow the right to reside in their matrimonial home for life. Upon termination of such right, the deceased sought to provide for 3 of his 6 grandchildren, to make a gift of $10,000 to each of his sons, and for the remainder of his estate to pass to his daughter in law who was also named Executor of his Will. The net value of his estate was in the vicinity of $3.8 million.

The deceased left a statement of wishes acknowledging that the gifts of money to his 2 sons represented “a small component” of his estate. The deceased recounted the substantial financial assistance he had provided to both of his sons during his lifetime especially during their “formative business years”.

A claim was brought by one son, a self-described “professional punter” for a greater share of his father’s estate. A pivotal aspect of every application for family provision is to establish need as this is an area of law that has “developed to address those circumstances where an eligible applicant has not been provided with ‘adequate’ and ‘proper’ maintenance from the estate of a deceased”. Unfortunately the applicant in this case did himself no favours in putting forward contradictory accounts of his financial position without adequate explanation. Far from presenting a convincing case of need, the Court determined that the applicant had made no effort to place before the Court an accurate statement of his financial position. Additionally the Court heard evidence of their long lasting estrangement which the Court noted provides an explanation (perhaps not the only explanation) for the deceased’s decision to make only modest provision for his son in his Will.

The son’s failure to accurately account to the Court for his true financial position, meant the Court was in “no position to assess whether the provision made for the applicant in the Will in question was otherwise than adequate”. “It is the applicant’s duty to place before the Court, candidly and fulsomely, the applicant’s financial position”. The applicant’s failure to do so in this case resulted in his application being dismissed.

At Everingham Solomons we have the expertise to assist you with all matters relating to family provision claims, because ***Helping You is Our Business****.*