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Daily Construction

A Daily Bulletin listing Decisions of Superior Courts of Australia

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Executive Summary (One Minute Read)

Coster v Coster (NSWSC) - son failed in estoppel and common intention constructive trust claim against his mother, in respect of the farm she owned

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Summaries With Link (Five Minute Read)

Coster v Coster [2024] NSWSC 1104

Supreme Court of New South Wales

Hmelnitsky J

Equity - a mother was the registered proprietor of a 700 acre farming property - her son contended that he lived and worked on the farm with his mother his whole adult life in reliance on express promises, or perhaps a common assumption, that his mother would eventually give the farm to him - he sought a declaration that his mother held 50% of the farm on trust for him - alternatively, he claimed that he and his mother had engaged in a joint endeavour which had come to an end without any attributable blame, and that he was entitled in equity to a charge over the farm to secure the contributions made by him to their joint endeavour, which, on the basis of an expert report, he said was about \$1.2million - held: a common intention constructive trust can arise where, at the time of the acquisition of property, there was a mutual intention of the parties that the property would be held jointly, whatever the legal title of the property, and the party lacking in legal title acts to his or her detriment on the basis of that intention - here, on the facts found by the Court, there was no agreement, promise, or common intention that the son should have any present beneficial interest in any property at the time of purchase or at any other time - the mother may well have contemplated that she would leave the farm to her son in her will, but that is a very different thing from intending at the time of purchase that he was or would be an owner of the property in the sense described in the authorities - the common intention constructive trust claim failed - the son's estoppel case also failed - the Court was not persuaded that the mother made the key representations alleged by the son - the Court found that the son would not have understood anything said by his mother, whether to him or anybody else, as to ownership of any property, to be a statement that the son might come to own either property during the mother's lifetime - the son would not have understood his mother to be saying anything other than that he would inherit the farm in her will if she still owned it - the son had also not demonstrated reliance on any alleged representations - the evidence did not demonstrate that any of the son's life decisions were explicable by his assumption that if he worked on his mother's farms, then the current farm would be his - the son had also not demonstrated that he would suffer any detriment, as he had never willingly suppressed his own capacity to accumulate his own capital - it was not unconscionable for the mother to assert her title to the farm - proceedings dismissed.

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