

Friday, 3 July 2020

Weekly Wills, Estates and Superannuation Law A Weekly Bulletin listing Decisions of Superior Courts of Australia covering Wills Estates and Superannuation Law

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Executive Summary (1 minute read)

MacAlpine v MacAlpine (NSWSC) - wills and estates - succession - family provision - plaintiff son of deceased sought order for family provision from deceased's estate - application refused

Estate of Lyn Burtonwood (NSWSC) - wills and estates - succession - 'procedural issue' - Court satisfied to grant letters of administration of testamentary document without inclusion of "on presumption of death"

G v G (No. 2) (NSWSC) - mental health - orders confirming NSW Trustee's power to invest or authorise investment of a 'protected estate' in 'Regulated ("Retail") Superannuation Fund' governed by SISA

Re Meuleman; Quminakelo v Amidzic (VSC) - succession - family provision - summary judgment - 'eligible person' - dependency - plaintiff's claim had no prospect of success - defendant granted summary judgment

Agostino v Petrobon & Anor (SASC) - wills and estates - probate - plaintiff sought to propound '2003 will' of deceased - defendants failed to discharge onus to prove validity of '2014 will' of deceased - application granted

Summaries With Link (Five Minute Read)

MacAlpine v MacAlpine [2020] NSWSC 824

Supreme Court of New South Wales

Parker J

Wills and estates - succession - family provision - plaintiff son of deceased sought order for family provision from deceased's estate - deceased 'left nothing' to plaintiff - whether will made 'adequate provision' for plaintiff - estrangement - plaintiff's receipt of 'significant assets' by 'inheritance and gift from his family' - assessment of "financial needs" - ss57(1)(c), 58, 59(2), 59(1)(c) & 60(1)(d) *Succession Act 2006* (NSW) - held: Court not satisfied that will did not make adequate provision for plaintiff - application dismissed.

[View Decision](#)

[From Benchmark Wednesday, 1 July 2020]

Estate of Lyn Burtonwood [2020] NSWSC 715

Supreme Court of New South Wales

Hallen J

Wills and estates - succession - 'procedural issue' - judgment concerning manner in which Letters of Administration of deceased 'should be described' - Coroner had determined deceased was dead - body of deceased had not been found - Inquest "held to make findings confirming that [the deceased] [had] died and if so when, where, by what cause and in what manner it occurred" - whether evidence supported conclusion deceased died on 16 February 2019, even though body not located - whether evidence supported 'deceased having died within a short period of having gone swimming' - whether to grant letters of administration of testamentary document without inclusion of "on presumption of death" - 'preponderance of probabilities' - held: Court satisfied to grant letters of administration of testamentary document without inclusion of "on presumption of death".

[View Decision](#)

[From Benchmark Thursday, 2 July 2020]

G v G (No. 2) [2020] NSWSC 818

Supreme Court of New South Wales

Lindsay J

Mental health - plaintiffs were managers of first defendant's 'protected estate' - plaintiffs, by notice of motion, sought confirmation whether NSW Trustee had 'power to authorise' plaintiffs to invest protected estate in "Regulated Superannuation Fund", as defined in s19 *Superannuation Industry (Supervision) Act 1993* (Cth) (SISA) - "Retail Superannuation Fund" - "protected person" - s38 *NSW Trustee and Guardian Act 2009* (NSW) - held: orders made confirming NSW Trustee's power to invest or authorise investment of a protected estate in 'Regulated ("Retail") Superannuation Fund' governed by SISA.

[View Decision](#)

[From Benchmark Friday, 3 July 2020]

Re Meuleman; Quminakelo v Amidzic [2020] VSC 376



Supreme Court of Victoria

Judicial Registrar Englefield

Succession - family provision - plaintiff, under pt IV *Administration and Probate Act 1958* (Vic) (Administration and Probate Act), sought provision from deceased's estate - defendant sought summary judgment on basis plaintiff's claim had 'no real prospect of success' - plaintiff contended, in reliance on s90(k) Administration and Probate Act, she was 'eligible person' - whether plaintiff was eligible person - dependency - ss91(2)(b), (4)(d) & (5)(b) Administration and Probate Act - held: plaintiff's claim had no prospects of success - summary judgment granted.

[Re Meuleman](#)

[From Benchmark Tuesday, 30 June 2020]

Agostino v Pietrobon & Anor [2020] SASC 117

Supreme Court of South Australia

Stanley J

Wills and estates - probate - plaintiff sought to propound '2003 will' of deceased - defendants contended 2003 will of deceased was revoked by '2014 will' of deceased - no challenge to validity of 2003 will - 'knowledge and approval' - 'suspicious circumstances' - onus - whether plaintiff had proved 2003 will - held: defendants did not discharge onus to prove validity of 2014 will - plaintiff had proved 2003 will - application granted.

[Agostino](#)

[From Benchmark Tuesday, 30 June 2020]



Benchmark

Motor Bus

By: Alfred Denis Godley

What is this that roareth thus?

Can it be a Motor Bus?

Yes, the smell and hideous hum

Indicat Motorem Bum!

Implet in the Corn and High

Terror me Motoris Bi:

Bo Motori clamitabo

Ne Motore caedar a Bo—

Dative be or Ablative

So thou only let us live:

Whither shall thy victims flee?

Spare us, spare us, Motor Be!

Thus I sang; and still anigh

Came in hordes Motores Bi,

Et complebat omne forum

Copia Motorum Borum.

How shall wretches live like us

Cincti Bis Motoribus?

Domine, defende nos

Contra hos Motores Bos!

[https://en.wikipedia.org/wiki/A. D. Godley](https://en.wikipedia.org/wiki/A._D._Godley)

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