



Friday, 13 December 2019

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)

The Public Trustee of Queensland v Cole & Ors (QSC) - wills and estates - applicant sought declaration concerning Will's 'proper construction' or 'rectification to reflect the deceased's true intentions' - order for will's rectification granted - orders made

In the Estate of Spiros Vlahiotis (Deceased) (SASC) - wills and estates - judicial advice - executor sought 'advice and direction' in relation to allegations that conduct by other executor - grant of probate to each executor revoked - letters of administration with Will annexed granted to lawyer

Stewart v Stewart (WASC) - wills and estates - plaintiffs sought that grant of probate in respect of deceased's '2009 Will' be revoked on basis deceased 'lacked testamentary capacity' - deceased lacked testamentary capacity - 2009 Will invalid - probate revoked

Summaries With Link (Five Minute Read)

The Public Trustee of Queensland v Cole & Ors [2019] QSC 298

Supreme Court of Queensland

Davis J

Wills and estates - applicant granted 'Order to Administer with the Will' in respect of deceased's will - applicant sought declaration concerning Will's 'proper construction' or 'rectification to reflect the deceased's true intentions' as to disposition of estate - service - costs - ss33 & 33C *Succession Act 1981* (Qld) - r117 *Uniform Civil Procedure Rules 1999* (Qld) - held: Court satisfied to make order for will's rectification - orders made.

[The Public Trustee](#)

[From Benchmark Tuesday, 10 December 2019]

In the Estate of Spiros Vlahiotis (Deceased) [2019] SASC 207

Supreme Court of South Australia

Stanley J

Wills and estates - applicant executor sought 'advice and direction' under s69 *Administration and Probate Act 1919* (SA) in relation to allegations that conduct by other executor had caused frustration to estate's 'due and proper administration' - breakdown in executors' relationship - whether estate's due and proper administration 'in jeopardy' - whether grant of probate should be revoked - held: grant of probate to each executor revoked - letters of administration with Will annexed granted to lawyer.

[In the Estate](#)

[From Benchmark Tuesday, 10 December 2019]

Stewart v Stewart [2019] WASC 432

Supreme Court of Western Australia

Curthoys J

Wills and estates - probate - testamentary capacity - plaintiffs sought that grant of probate in respect of deceased's '2009 Will' be revoked on basis deceased 'lacked testamentary capacity' when she made 2009 Will - whether deceased had testamentary capacity - *Ryan v Dalton; Estate of Ryan* [2017] NSWSC 1007 - held: deceased did not have testamentary capacity when she made 2009 Will - 2009 Will invalid - probate revoked.

[Stewart](#)

[From Benchmark Thursday, 12 December 2019]

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The Jumblies

By: Edward Lear

They went to sea in a Sieve, they did,
In a Sieve they went to sea:
In spite of all their friends could say,
On a winter's morn, on a stormy day,
In a Sieve they went to sea!
And when the Sieve turned round and round,
And every one cried, 'You'll all be drowned!'
They called aloud, 'Our Sieve ain't big,
But we don't care a button! we don't care a fig!
In a Sieve we'll go to sea!'
Far and few, far and few,
Are the lands where the Jumblies live;
Their heads are green, and their hands are blue,
And they went to sea in a Sieve.

II

They sailed away in a Sieve, they did,
In a Sieve they sailed so fast,
With only a beautiful pea-green veil
Tied with a riband by way of a sail,
To a small tobacco-pipe mast;
And every one said, who saw them go,
'O won't they be soon upset, you know!
For the sky is dark, and the voyage is long,
And happen what may, it's extremely wrong
In a Sieve to sail so fast!'
Far and few, far and few,
Are the lands where the Jumblies live;
Their heads are green, and their hands are blue,
And they went to sea in a Sieve.

III

The water it soon came in, it did,
The water it soon came in;
So to keep them dry, they wrapped their feet



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In a pinky paper all folded neat,
And they fastened it down with a pin.
And they passed the night in a crockery-jar,
And each of them said, 'How wise we are!
Though the sky be dark, and the voyage be long,
Yet we never can think we were rash or wrong,
While round in our Sieve we spin!
Far and few, far and few,
Are the lands where the Jumblies live;
Their heads are green, and their hands are blue,
And they went to sea in a Sieve.

IV

And all night long they sailed away;
And when the sun went down,
They whistled and warbled a moony song
To the echoing sound of a coppery gong,
In the shade of the mountains brown.
'O Timballo! How happy we are,
When we live in a sieve and a crockery-jar,
And all night long in the moonlight pale,
We sail away with a pea-green sail,
In the shade of the mountains brown!
Far and few, far and few,
Are the lands where the Jumblies live;
Their heads are green, and their hands are blue,
And they went to sea in a Sieve.

V

They sailed to the Western Sea, they did,
To a land all covered with trees,
And they bought an Owl, and a useful Cart,
And a pound of Rice, and a Cranberry Tart,
And a hive of silvery Bees.
And they bought a Pig, and some green Jack-daws,
And a lovely Monkey with lollipop paws,
And forty bottles of Ring-Bo-Ree,
And no end of Stilton Cheese.



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Far and few, far and few,
Are the lands where the Jumblies live;
Their heads are green, and their hands are blue,
And they went to sea in a Sieve.

VI

And in twenty years they all came back,
In twenty years or more,
And every one said, 'How tall they've grown!'
For they've been to the Lakes, and the Terrible Zone,
And the hills of the Chankly Bore;
And they drank their health, and gave them a feast
Of dumplings made of beautiful yeast;
And everyone said, 'If we only live,
We too will go to sea in a Sieve,—
To the hills of the Chankly Bore!'
Far and few, far and few,
Are the lands where the Jumblies live;
Their heads are green, and their hands are blue,
And they went to sea in a Sieve.

https://en.wikipedia.org/wiki/Edward_Lear

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