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## High Court judgment demonstrates the unpredictable nature of will validation

The decision to uphold Ronald Butcher's will should not dissuade expectant beneficiaries from making their own claims, say Richard Manyon and Tom Beasley

The dying can be fickle. That is not meant disrespectfully, but it is the case that those reaching the end of their lives can make changes to their testamentary arrangements which sometimes turn away from close relationships that have lasted decades, in favour of friendships with those who have been supportive during the last few years of life. Relatively minor acts of kindness can be rewarded many times over.

So it was with Ronald Butcher, who died in March 2013. The resulting dispute over his estate was resolved by the High Court in May 2015. Mr Butcher was a bachelor living in north London. His only surviving relative was a cousin, Joyce, living in Plymouth. He was also close to the children of an old school friend, Evelyn and Peter, to whom he was known as 'Uncle Ron'.

The net value of Mr Butcher's estate was just under £500,000. Over the years he had produced several wills which, after the death of his sister in 2003, had demonstrated an intention to favour Joyce, Evelyn and Peter. However, this changed in January 2013, two months prior to his death, when Mr Butcher produced a will leaving his entire estate to a Daniel Sharp.

Daniel Sharp is a builder by trade. He met Mr Butcher in around 2007 when the latter asked him for some assistance in fixing a water leak. Mr Sharp obliged and unblocked a drain to solve the problem. Because the job had been quick and easy, he decided not to charge.

They became friends, though by Mr Sharp's own admission in court not close friends, with Mr Sharp dropping in on Mr Butcher from time to time. As a result of this friendship, Mr Butcher decided to change his will in favour of Mr Sharp.

**Article by Richard Manyon, Dispute Resolution associate at Payne Hicks Beach and Tom Beasley**, first published in Spear's magazine online on 7 May 2015 <http://www.spearswms.com/blog/high-court-judgment-demonstrates-the-unpredictable-nature-of-will-validation#.VVHeeP1wYps>

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Following Mr Butcher's death, the 2013 will was challenged by Evelyn (supported by Peter and Joyce). Doubt was cast over the friendship with Mr Sharp (whom Evelyn had never heard of), and it was argued that Mr Butcher did not have the requisite knowledge and understanding to make the 2013 will.

These arguments were rejected by the court, which declared the 2013 will valid. It found that Mr Butcher was simply a lonely man who appreciated his friendship with Mr Sharp.

This decision will doubtless have come as a great disappointment to Evelyn, Joyce, and Peter but disappointed beneficiaries should not take this case as an indication that all such challenges are bound to fail. Each case turns on its own facts and there are a number of ways to query the validity of a will. These include the following:

- > Due Execution - under statute, a will must be in writing and signed by (or at the direction of) the person creating the will, in the presence of two witnesses.
- > Testamentary Capacity - the testator must be able to understand what they are doing when making their will.
- > Knowledge and Approval - the testator must know and approve of the contents of the relevant will, though they do not have to understand its legal effect.
- > Undue Influence or Fraud - a testator may have capacity and they may have approved the contents of the will, but, if they are weak and feeble, they might give in to someone who keeps insisting that they change their will and 'poisons' their judgment, or who misleads them about the will's effect.

It is a fundamental principle of English law that a person should be able to dispose of their estate as they see fit. Nonetheless, it is as well to be aware of the possible routes of challenge in the event that an unexpected will appears.

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