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Update on 1975 Act Claims by Adult Children: Miles v Shearer [2021] EWHC 1000 (Ch)

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Miles v Shearer [2021] EWHC 1000 (Ch): Background

- Claimants = adult daughters (40 and 39) of Anthony Presley Shearer (died aged 68 on 12 October 2017)
- ASP married to Claimants' mother for 34 years - divorced in 2007. Married Defendant shortly after.
- Will dated 2 February 2015 (mirror will with Defendant)
 - Defendant = executor and sole beneficiary (save two small legacies)
 - No provision for Claimants (but substitutionary provisions)
- Estate sworn at £2.2 million (+ jointly owned property & other assets)

Miles v Shearer [2021] EWHC 1000 (Ch): Background

- Claimants applied for an order for reasonable financial provision to be made for them: s.1(c) Inheritance (Provision for Family and Dependents) Act 1975
- ASP from a “comfortably well off” background. Worked in finance (CEO of Singer & Friedlander in 2005). Claimants raised in Holland Park and privately educated etc.
- Marriage between Claimants’ mother and ASP ended in 2007
 - Marital assets split approximately 50/50

Miles v Shearer [2021] EWHC 1000 (Ch): Background

- ASP and Defendant married in 2007.
- Relationship between ASP and each of Claimants experienced periods of difficulties after divorce:
 - ASP opposed to younger daughter’s marriage
 - Relationship between Defendant and Claimants not good
- “The presentation of the cheques: in 2008
 - £177,000 to older daughter
 - £185,000 to younger daughter
 - Source of funds (?)

Miles v Shearer [2021] EWHC 1000 (Ch): Background

- Evidence of Defendant (accepted by court) that ASP considered financial obligations at an end
 - Did not provide financial assistance to Claimants after those gifts
 - ASP letters to Claimants
- Older Claimant's position at time of trial
 - 2 daughters (younger severely autistic). Divorcing second husband.
 - Not working (wanted to become dog behaviourist). Living with mother in large house in the country.
 - Capital of about £175,000 (currently invested in flat jointly owned with mother)
- Younger Claimant's position at time of trial
 - 1 son. Divorced.
 - Working at auction house (£70,000 pa)
 - Capital in flat of £300,000 (interest only mortgage, equity retained by ex husband)

Miles v Shearer [2021] EWHC 1000 (Ch): The Claims

- Older Claimant sought:
 - Housing fund (to be used together with £177,000 capital)
 - Costs of training
 - Duxbury
- Younger Claimant sought:
 - Sum to allow her to switch to repayment mortgage
 - Sum to buy out ex-husband from flat
- Defendant opposed:
 - No needs based defence
 - Claimants can't establish needs
 - Conduct of Claimants towards ASP
 - No continued assumption of responsibility by ASP towards Claimants

Miles v Shearer [2021] EWHC 1000 (Ch): The Judgment (1)

- Claims Rejected
- Older Claimant not established need for maintenance:
 - Likely that mother would allow her further £177,000 from joint flat on sale
 - Realistic housing alternatives (even if mother sold shared house)
 - Could realistically earn £15,000 per annum as dog trainer/behaviourist
- Younger Claimant not established need for maintenance:
 - Doubted that payment of sum to allow switch to repayment mortgage can be properly described as maintenance
 - Liability to ex-husband contingent to be satisfied in 2034 - not liability “has or is likely to have in foreseeable future”

Miles v Shearer [2021] EWHC 1000 (Ch): The Judgment (2)

- Not prepared to accept that Defendant had revoked her mirror will (had declined to answer questions about it in cross examination)
- No legal obligation on ASP to support adult children. He had not assumed continuing responsibility to do so. No obligations or responsibilities towards daughters.
- ASP's conduct after his marriage to Defendant was not unreasonable.
- Most important aspect was that after the 2008 gifts ASP was not prepared to offer further financial assistance. The lifestyle choices made by the Claimants were not dependent on any expectation of financial benefit.

A Parent's Obligation to Maintain an Adult Child: the Case Law

The Applicable Standard of Maintenance (1)

- Section 1(2)(b) of the 1975 Act: “*such financial provision as it would be reasonable in all the circumstances of the case for the applicant to receive for his maintenance.*”
 - Applies to all categories of applicant except former spouse or civil partner (including cohabitantes)
- Concept of maintenance is broad but cannot extend to everything desirable for applicant to have. Must import provision to meet everyday standards of living (including provision for housing) (Illott v Mitson [2018] AC 545).

The Applicable Standard of Maintenance (2)

- Re Dennis [1981] 2 All ER 140 (Browne-Wilkinson J) (adult child case):

“In my judgment the word ‘maintenance’ connotes only payments which, directly or indirectly, enable the applicant in the future to discharge the cost of his daily living at whatever standard of living is appropriate to him.”

- Negus v Bahouse [2008] EWCA Civ 1002 (Mummery LJ) (cohabitee case):

“I pause to say here that that statement, which has been acted on in many subsequent cases, does seem to me to allow regard to be had in awards under the 1975 Act to the fact that some people have a much more expensive or extravagant way of life than others....It is what is appropriate to that case, which means looking at what style of life the claimant was accustomed to live with the deceased during his lifetime.”

The Applicable Standard of Maintenance (3)

Miles v Shearer [2020] EWHC 1000 (Ch):

“The claimants are both adult children of the deceased, who had lived their own lives and made their own lifestyle decisions without any further financial assistance from Tony after the gifts in 2008...what is “appropriate” for their cases is not comparable with that was appropriate in the case of a partner who had shared the life of the deceased, as in the case of Negus v Bahouse [2008] EWCA Civ 1002”

ADR & Mediation in 1975 Act Claims

Procedure in 1975 Act Claims



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Any Questions?

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