

The relevant principle of proprietary estoppel (Thompson v Thompson)

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Private Client analysis: According to Leslie Blohm QC at St John's Chambers, the case of Thompson v Thompson demonstrates the willingness of the court, in appropriate circumstances, to award the entirety of a farm to a farmer's child following a lifetime of work and after informal promises of succession made to him by his parents, under the doctrine of proprietary estoppel.

Thompson v Thompson [\[2018\] EWHC 1338 \(Ch\)](#), [\[2018\] All ER \(D\) 34 \(Jun\)](#)

What are the practical implications of this case?

First, a practical point. The court applied the 'short summary of the relevant principles of estoppel' given by Lewison LJ in *Davies v Davies* [\[2016\] EWCA Civ 463](#) at para [38]. It is likely that these are going to be the handy go-to principles for practitioners for the next few years, and all should be aware of what they say.

Secondly, the court found sufficiently clear representations even though the claimant could not give detailed evidence of a specific promise. Given the informal nature of the relationship, this is not unusual, and illustrates that the inability to give details of the making of the promise is not fatal to the claim as long as the court accepts that the gist is sufficiently clear and certain.

Next, the case is relevant in demonstrating a trend as to remedy. Following *Moore v Moore* [\[2016\] EWHC 2202 \(Ch\)](#), it demonstrates the willingness of the court, in appropriate circumstances, to award the *entirety* of a farm to a farmer's child following a lifetime of work after informal promises of succession made to him by his parents, under the doctrine of proprietary estoppel.

It is a matter for the court's judgment as to the appropriate relief to be granted when an estoppel is established, and, perhaps helpfully, the courts have expressed the applicable principles in numerous different ways, such as that

- the award should be 'proportionate' to the detriment, or
- the court should not award more than the minimum equity to do justice, or
- the court should award the claimant's expectation where the promise was 'transactional', unless to do so would be out of all proportion to the detriment incurred

Thompson, as with *Moore*, and *Suggitt v Suggitt and another* [\[2012\] EWCA Civ 1140](#), [\[2012\] All ER \(D\) 100 \(Oct\)](#), involved a claim against a farm by a farmer's adult child, and illustrates a trend for such claims to be successful almost in full, scooping the pool, if made out on the facts unless there is a clear reason to award less.

The judge found that the promises made were 'transactional', and was therefore a quasi-contract claim (where the agreement was that property will pass if work is done in return, and where the claim to be awarded what has been promised is usually at its strongest). He had no compunction in awarding the whole farm (including the farmhouse) to the claimant.

This was not a case in which the parents' dealings with their son were all informal. They had made him a partner in the farming business. That might ordinarily lead one to believe that where the parties wanted to change their relationship as regards property, they would do it formally. However, the judge found that this was the part performance of the much larger promises made to the claimant throughout his life.

The promise that was made was that the claimant would succeed to the farm after the death of the parents. As the mother was still alive, albeit elderly, giving the claimant the farm at once would have accelerated the gift in advance of that which he had been promised. The court therefore awarded him the farm on his mother's death, an interest in reversion, and restrained her from dealing with the farm adversely during her lifetime.

This does raise the question as to what would happen if the mother needed capital, for example for medical treatment during her life. Any promise would usually have been subject to the implicit restriction that in these circumstances the gift or promise might not be wholly perfected. The judgment appears to indicate that this is a risk that will now fall on the mother, although as the precise order was to be made after a further hearing, it may be that provision will have been made for this.

What was the background?

Gilbert Thompson was the youngest of five children and the only son of his parents, who farmed in Lanchester, County Durham. He claimed that he had worked for his parents farming business for 35 years at low wages, against their promise that he would inherit the farm after them. He became a partner of the farming business with his parents.

His father died in 2012. His mother denied the making of any promises, that Gilbert had acted to his detriment on the promises or that the appropriate remedy was to convey the farm to Gilbert.

What did the court decide?

The court found that Mr and Mrs Thompson had made the promises alleged, and that Gilbert had dedicated his whole life to the farm, which has had an effect on his lifestyle in terms of working hours, financial independence and ability to buy or live in his own house. It awarded him the farm and bungalow in which he lived, after the death of his mother.

Leslie Blohm QC is joint deputy head of St John's Chambers and head of the commercial and chancery practice group. He is one of the Western Circuit's leading commercial and chancery practitioners and was shortlisted for 'Silk of the Year' within the Legal 500 UK Regional/Scottish Awards 2018. Leslie deals with commercial disputes and problems, in particular those with a property element. He also acts in probate disputes, Inheritance Act claims and trust litigation. He has written a paper entitled 'Farms and estoppel claims—the new growth era' (published Sept 2014).

Interviewed by Kate Beaumont.

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