

LEGAL EAGLE



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WITH CLIFF VEITCH

The importance of an up-to-date Will

The news last week was full of the case of Joy Williams. She had lived with her partner Norman Martin at their home in Dorset until his death.

Last week she won a High Court battle after his estranged wife inherited half of their home. In this case Joy Williams had lived with Mr Martin, a dentist, for 18 years until his death.

She succeeded in claiming his half of their home despite the fact that Mr Martin was still legally married and indeed had a Will providing for his former wife Maureen.

Although he had been separated from his wife Maureen for many years, Mr Martin had failed to amend

his Will and when he died his estranged wife Maureen was his beneficiary and she inherited Mr Martin's share of the home which he lived in with Joy Williams.

Mr Martin and Ms Williams held their property as "tenants in common" meaning that upon his death his share did not pass to Joy Williams.

Mrs Martin stood to inherit the half of the property he held with Ms Williams.

Had Mr Martin and Ms Williams held the property as joint tenants then Ms Williams would have inherited his half of the property, making her the sole owner.

The issue for the court was not whether Mr Martin's Will was valid but whether

Ms Williams was living as his wife and whether she relied upon him financially.

The court was asked to consider whether or not this was enough to trump the claims by Mr Martin's wife that she was the legal heir to his estate.

Judge Nigel Gerald ruled in favour of Joy Williams.

The reason for this decision was based on a claim for "reasonable financial provision". Ms Williams had to establish that she was maintained "wholly or partly" by Mr Martin immediately before his death or that they lived together as if they were husband and wife prior to the death of Mr Martin and whether this was "reasonable and fair".



Mrs Martin fought the claim and denied they were "estranged". The judge disagreed. He said that it was clear that Mr Martin and Ms Williams lived in a committed relationship which they "expected to spend the rest of their lives in". Joy Williams won the case and the judge gave Mr Martin's share

to her. Although this case is a step in the direction of recognising the potential rights of cohabitants it does not amount to a change in the law.

The reasons for finding in favour of Ms Williams take account of all of the facts contributing to the claim and therefore it should be not relied upon fully as a precedent.

The case highlights the position of "common law" marriage.

"Common law" marriage is not legally recognised and to avoid any doubt a Will is essential.

This is particularly important if the couple are not planning on getting married or may even be married to

another party. Once a Will has been made it should be kept up-to-date to take account of changes such as the birth of children, a separation or marriage.

Couples who are moving in together or cohabiting may also consider a cohabitation agreement, which sets out who owns property.

• Cliff Veitch is a partner specialising in wills at David Gray Solicitors LLP. You can call for an appointment to make a will on 0191 243 8167. If you would like to discuss a cohabitation agreement you can speak to specialist Nicky Hunter, call 0191 243 8163. Appointments available in both South Shields and Newcastle city centre.

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