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Original Citation

Gibson, Natalie and Kelly, Rebecca (2017) Family law update: current issues in proprietary estoppel - Part 2. CILEX Journal. pp. 24-25. ISSN 2050-0580

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Family law update:
current issues in proprietary estoppel – Part 2

Natalie Gibson and **Rebecca Kelly** comment on *(1) Davies (2) Davies v Davies* [2016] EWCA Civ 463 and the doctrine of proprietary estoppel relating to parents and their daughter.*

About the author

Natalie Gibson and Rebecca Kelly are senior lecturers at Huddersfield University.

The court at first instance held that the respondent in this case, Eirian Davies, dubbed at the time as the 'cowshed Cinderella' be awarded £1.3m in respect of expectations and detriment she suffered working on her parents' farm over a number of years. Challenging the quantum of equitable relief, her parents appealed the decision unsuccessfully, and then subsequently took the case to the Court of Appeal.

The appellants owned a family farm that had been operating for over 50 years and ran it with their daughter, the respondent. She was the only one of their three children interested in working on the farm. There was a draft partnership agreement, but this was never signed by Mr and Mrs Davies. The working relationship between Eirian Davies and her parents was, at times, very acrimonious, and resulted in both appellants changing their will several times and in the respondent, on several occasions, temporarily ceasing to live and work on the farm to marry and start a family. Eirian Davies left permanently in 2012.

After considering all of the evidence, the judge at first instance was satisfied that the appellants had, at one stage, allowed the respondent to hold an expectation of inheriting the farm and the expectation of a partnership in the business. She had suffered detriment in reliance by working and living on the farm for many years, had received little remuneration and had given up an alternative career opportunity. However, the judge took into account that Eirian Davies' expectation was dependent on her continuing to work on the farm for the rest of her life and the expectation she held, in fact, varied over time.

On leaving the farm in 2001, the respondent

accepted that she had no expectation that the promise of the farm continued. When she returned, on each occasion different assurances were made. For example, in 2007, Eirian Davies was promised that she could live there for life and, in and after 2008, discussions related to a shareholding in the business. From 2009, there was a draft will leaving the farm to the respondent, but arguments soon followed after seeing the document and correspondence suggesting that she 'knew' the promises made to her would not be kept (para 64).

Acknowledging that the respondent's expectations were only an 'appropriate starting point', the trial judge noted that the position with regard to expectation was changing and somewhat uncertain and that she did not abide by her parents' wishes to always work in the business (para 33). He rejected Eirian Davies' claim to be awarded the land and the business. In awarding the lump sum of £1.3m, which represented around one-third of the net value of the farm and business, he considered this to be a fair reflection of the expectation, the detriment suffered and other factors.