

IN THE SUPREME COURT OF SOUTH AUSTRALIA

No 192 of 2007

IN THE MATTER OF THE ESTATE OF ERINI STLIANO DECEASED

BETWEEN:

ANNA MARIA ITSINES

Plaintiff

and

PHILIP STILANOS and others

Defendants

OUTLINE OF PLAINTIFF'S SUBMISSIONS

For Hearing: 26th February, 2007
Before: The Honourable Justice Gray

1. The plaintiff makes this application in her capacity as executor. As executor she is obliged to act in the interests of all of the beneficiaries.
2. The plaintiff has identified the following issues relating to the land in Greece:
 - 2.1 are the disputed gifts of the land by endorsement on titles effective? – if so such land is not part of the estate of the deceased. That question is one for the deceased's children to decide to agitate or not.
 - 2.2 if the disputed gifts are ineffective is the first defendant ("Philip") entitled (by virtue of the gift of residue) to all of the Greek land – or is his the interest he takes by virtue of the will restricted (under Greek law) to half – or some other proportion – of the properties?
 - 2.3 is any (and if so, what) of the Greek land available to meet the debts funeral and testamentary expenses of the deceased?

3. The plaintiff's concern is that the Court is not frustrated in its consideration of the second and third questions.

4. The evidence suggests that Philip may be able to presently deal with the land so as to defeat an effective determination by the Court:
 - 4.1 he requires an office copy of the probate and a death certificate
 - 4.2 he has instructed a lawyer overseas to "process the will and [his] inheritance"
 - 4.3 he has legal advice that he is entitled to act independently of the executor
 - 4.4 he considers that the Greek properties should ***not*** bear the debts funeral and testamentary expenses

5. The application is made ***quia timet***. The executor merely seeks to preserve the status quo while the identified issues are resolved by the Court. The question is one of protection of the interests of the minor beneficiaries. That question is clearly a matter of importance to the Court -: Rule 206(2).

JS Roder
22nd February, 2007

