



Press Summary

19 October 2022

Guest and another (Appellant) v Guest (Respondent)

[2022] UKSC 27

On appeal from: [2020] EWCA Civ 387

Justices: Lord Briggs, Lady Arden, Lord Leggatt, Lord Stephens, Lady Rose

Background to the Appeal

This appeal concerns the proper basis for awarding remedies in cases of proprietary estoppel. Proprietary estoppel arises when a person gives a promise or assurance to another person that they have or will be given an interest in property and that other person reasonably relies on the promise or assurance to their detriment.

The case arises from a dispute between members of a farming family over the future of the family farm. The Claimant (“**Andrew**”) is the eldest child of the Defendants (“**David**” and “**Josephine**”) who presently own the farm. David and Josephine have another son (“**Ross**”), who is also a farmer, and a daughter (“**Jan**”), who is not. Andrew lived and worked on the farm with his parents for some 32 years after leaving school in 1982, with increasing responsibilities. He was paid for his work but at relatively low rates.

Andrew had been promised by his parents that he would inherit a substantial but unspecified share of the farm, sufficient to enable him to continue a viable farming business after David’s death. In fact, his parents had made wills in 1981 providing for him and Ross to inherit the farm in equal shares subject to financial provision of 20 percent of the estate for Jan.

However, from around 2008, the relationship between Andrew and his parents began to deteriorate. In May 2014 David and Josephine made new wills removing Andrew’s inheritance. In April 2015 they dissolved their farming partnership with Andrew and gave him notice to quit the property on the farm in which he and his family lived.

Andrew issued proceedings alleging that he was entitled to a share in the farm or its monetary equivalent on the grounds of proprietary estoppel. The trial judge held that Andrew had continued to work on the farm for little financial reward because he reasonably relied, to his detriment, on various assurances made by his parents as to his future inheritance of the farm. He thereby satisfied the conditions for the estoppel to arise.

The trial judge ordered the parents make an immediate payment of £1.3 million (subject to certain adjustments) to Andrew to satisfy his expectation as to what he would have inherited. This was calculated as 50 percent of the value of the dairy farming business plus 40 percent of the value of the freehold land and buildings at the farm.

Before the Court of Appeal, the parents argued that the trial judge had been wrong to fashion the remedy based on Andrew's expected inheritance. They argued that the award should instead have been calculated by reference to Andrew's contribution to the value of the farm or his loss of opportunity to work elsewhere. They also argued that the remedy wrongly accelerated Andrew's expectation, as he had not expected to receive an interest in the farm until his parents' death. The Court of Appeal dismissed the appeal holding that it was appropriate to order a remedy by reference to Andrew's expectation and that the trial judge was entitled to make the order he did. The parents appealed to the Supreme Court.

Judgment

Lord Briggs, with whom Lady Arden and Lady Rose agree, allows the appeal in part and substitutes alternate remedies of either putting the farm into trust in favour of their children or paying compensation to Andrew now but with a reduction properly to reflect his earlier-than-anticipated receipt. The parents are to be entitled to choose between these options. Lord Leggatt, with whom Lord Stephens agrees, would also have allowed the appeal but on substantially different grounds and would have substituted a different remedy.

Reasons for the Judgment

Lord Briggs identifies the purpose of proprietary estoppel as being to prevent or compensate for the unconscionability of a person going back on a promise upon which another person has relied to their detriment [8]-[13]; [61].

Following an analysis of previous case law [14]-[60], Lord Briggs concludes that historically the usual remedy was to enforce the promise, as the simplest way to remedy the unconscionability. However, when the circumstances made strict enforcement unjust the court could substitute a payment based upon (but sometimes less than) the value that the promisee expected to receive [61]-[62].

Lord Briggs rejects the idea that the aim of a remedy for proprietary estoppel ever has been (or should be) based on compensating for the detriment suffered by the promisee [13]; [61]; [65]-[71]. The remedy should not be out of all proportion to the detriment suffered without good reason, but this only serves as a useful cross-check for potential injustice [72]-[73].

Lord Briggs considers that the court should start by determining whether going back on the promise is unconscionable at all in the circumstances [74]. If it is, then the court should then proceed on the assumption that the simplest way to remedy that unconscionability is to enforce the promise to transfer the property in question, but it may have to consider alternatives such as providing a monetary equivalent, for example if the property has been sold or if its transfer would cause injustice to others [75]. If the enforcement of the promise, or monetary equivalent, would be out of all proportion to the detriment to the promisee, then the court may need to limit the remedy. However, this does not mean it should seek precisely to compensate for the detriment to the promisee [76]. If the remedy involves acceleration of a future promised benefit, it will generally require a discount for accelerated receipt [78]. Finally, the court should consider in the round whether a particular remedy

would do justice in the circumstances, by considering whether the promisor would be acting unconscionably if they were to confer the proposed benefit on the promisee [80].

Applying these principles Lord Briggs rejects the parents' argument that the trial judge was wrong to adopt an approach based on Andrew's expected inheritance [92]-[95]. However, he holds that the trial judge did not adequately discount the sum awarded to reflect the fact that Andrew would receive compensation earlier than he had expected to inherit an interest in the farm [96]-[100].

Considering the remedy afresh Lord Briggs holds that the parents should be entitled to choose between putting the farm into trust for the children subject to a life interest in the parents' favour; or making an immediate payment of compensation on the lines the judge ordered but with sufficient discount to reflect the early receipt. If the amount of such payment cannot be agreed following valuation of the farm it will be remitted to the Chancery Division to determine the amount [100]-[105].

Lord Leggatt disagrees with Lord Briggs and considers that the core principle underpinning relief for proprietary estoppel is to prevent a party going back on a promise without ensuring that the party who relied on that promise will not suffer a detriment as a result of that reliance [188]-[191]; [255]. To achieve this a court may either: (1) compel performance of the promise (or order equivalent payment to put the promisee in the position they would have been if the promised had been performed); or (2) award compensation to put the promisee into as good a position as if they had not relied on the promise [192]-[195]; [256]. The court should adopt whichever method results in the minimum award necessary to meet the aim [197]; [256]. On this basis Lord Leggatt would have awarded Andrew £610,000 to compensate for the detriment he has suffered as a result of working on the farm in reliance upon his parents' assurances [275]-[282]. This reflects the estimated additional amount Andrew would have earned by working elsewhere [Appendix].

References in square brackets are to paragraphs in the judgment

NOTE:

This summary is provided to assist in understanding the Court's decision. It does not form part of the reasons for the decision. The full judgment of the Court is the only authoritative document. Judgments are public documents and are available at: [Decided cases - The Supreme Court](#)

