IN THE HIGH COURT OF NEW ZEALAND
CHRISTCHURCH REGISTRY

NO. A.15/79

624

IN THE MATTER of the Family Protection Act 1955

A N D

IN THE MATTER of the Estate of WILLIAM BOSWELL STEAD, Deceased

BETWEEN PATRICIA FRANCES ANNE BARKER and WILLIAM JALLAND STEAD

Plaintiffs

A N D ROSETTA NELLIE STEAD, HERBERT GEORGE WEST and WILLIAM JAMES GLASGOW

Defendants

Hearing: 3 May 1982

Counsel: P.G.S. Penlington (Q.C.) & D. Maze for Mrs Pomfret-Brown
G.M. Cameron & S.G. Ennor for Plaintiffs
D.J.R. Holderness for Trustees
N.R.W. Davidson for Children & Grandchildren

Judgment: 15 SEP 1982

JUDGMENT OF COOK J.

The testator died in Nelson on 21st January 1968 leaving him surviving his widow then aged 61 and three children; James Boswell Stead, born 7th May 1934, Patricia Frances Anne Barker, born 22nd September 1932 and William Jalland Stead, born 4th October 1946. His estate accounts showed the following assets and liabilities:-

Cash	$13,311.14
Furniture etc.	1,828.25
Farm stock, implements, vehicles etc.	5,563.52
	$20,702.91 C/F

	$20,702.91	B/F
Policies of assurance	2,496.90	
Shares, stock etc.	1,023.22	
Real property	29,930.00	
	$54,153.03	
Gifts made	10,000.00	
	$64,153.03	
Debts	774.88	
	$63,378.15	

The real property referred to is an orchard and, according to the affidavit of Mr W.J. Glasgow, solicitor to the estate, the value of the land and buildings was finally fixed for duty purposes at $36,550, as opposed to a book value at that time of $7,633. Included in the policies of assurance was one worth approximately $1800, on the life of the son William and his property. The duty paid amounted to $9,100.

The testator's will had been made 9 years before his death, but there were two codicils made on the 17th August 1965 and the 9th March 1967 respectively. By his will, he left his wife all furniture and articles of personal domestic or household use and gave devised and bequeathed the rest of his estate, after payment of debts, testamentary duties and expenses, upon trust to allow his wife to have the free use income and enjoyment thereof and to carry on the orchard business so long as she should remain his widow but subject to her paying outgoings and also the premium on the life policy, mentioned above, taken out for the benefit of the younger son. Any power to lease the property was expressly excluded. From and after the widow's death or remarriage, the daughter was to receive a property at Monaco, Nelson province; the son James Stead the orchard property and all farming and orchard plant and equipment, but this latter gift was charged with payment of premiums on the life policy mentioned and the payment to the younger son of an annuity of £300 for seven years after the death or remarriage of the widow. The residue then remaining was to be held in trust for the daughter and the younger son,

equally between them.

By the first codicil a bequest was made to the younger son of an outboard motor-boat with its motor, trailer and gear, a shot-gun and a rifle and the annuity payable to him was directed to cease when he attained 24. While under the will the orchard would have passed to the son free of duty, by virtue of this codicil the property, when it came into his hands, was to be charged in favour of the trustees with payment of a sum equal to the total duty paid. The second codicil was made following the sale of the Monaco property and, in its place, was substituted a legacy of $2,000 for the daughter, but payment was postponed until the death or remarriage of the widow.

According to the widow, the testator had felt that his daughter, Patricia, who had married prior to the testator's death, was well-cared for by her husband and, that, in providing an education for the younger son he was giving him the qualifications which would enable him to make his way in the world without further substantial assistance.

For a number of years the widow, with the assistance of her elder son, James, carried on the farming business. More will be said of the part James played but, unhappily, in 1975 he died of cancer leaving a wife and four young children. Without him the widow was unable to carry on the orchard and a sale was made in 1976. By reason of the fact that the land lay immediately outside the boundary of Nelson city and there had been considerable sub-division of land close at hand, but within the city boundaries, the interest of speculators had been aroused and the sale price was high, approx imately $226,000. The net result is that, subject to the widow's interest which, as she is still alive and has not remarried, has not yet terminated, James' estate has a vested interest in the net proceeds of sale, $225,719 less the estate duty with which the property was charged $9087, a net sum of $216,641.

As against this, the residue amounts to $17,369 from which must still come administration costs since 1979

and costs in connection with these proceedings; also, Mrs Barker's legacy of $4,000 so that the amount for final division between the daughter and the son, William, cannot exceed $13,369 and must be expected to be somewhat less. The items bequeathed to William were valued at $1,100. It is to be noted that under his will James left a 1/25th of the moneys to come from his father's estate to each of them, his brother and sister, and that that would amount to $8,430 in the case of each.

In the face of this situation the daughter, Patricia, and the son, William, seek an order for extension of time for bringing proceedings under the Family Protection Act and for further provision from their late father's estate.

I turn first to the upbringing of the children and the circumstances at the time of their father's death and now.

James Stead:

This son had attended Nelson College and then worked on the orchard for two years after he left school, followed by a time at Massey College when he obtained a qualification in horticulture. During that time he was supported by his parents. In 1956, after completing at Massey, he returned to the orchard and worked there continuously until his death in 1975. He had not married at the time of his father's death and, prior to marrying, he was paid the award wages for orchard managers plus a bonus. He had free board and the use of a family car. It seems that while his father was still alive the son gradually assumed the day to day management of the orchard, though final financial control remained first with the father and mother and after the father's death with the latter. It seems also that he had a tendency to save his money and in the late 1950's he purchased an area of 1½ acres which adjoined the orchard and there developed a small market garden. After his return from Massey, up until the testator's death, there was steady development of the orchard. It was stated that the testator was keen to see improvements made; that he could see that James was dedicated to the orchard and wanted to keep up his interest and encourage

him. One can well understand that that would be so. James married in 1969 and a house was built on the 1½ acres which he owned. The couple adopted four children. According to his widow, he worked full-time on the orchard, seven days a week and the market garden was rather in the nature of a hobby. She seemed to have brought to the marriage a sum of $3,000 which was put into the house that was built. She had trained as a nurse, had a car and was working as a veterinarian's assistant. There was some money which she had inherited in England of which she received $1,000 in New Zealand, and investments worth approximately $3,000 remained there.

Under James' will the orchard property or the proceeds of sale are to be held on trust to pay one-third to his widow and, as already mentioned, 1/25th to each of Patricia and William; the balance is to be invested, the income to be paid to his widow during widowhood and, subject to that, to be held equally between the children. The residue of the estate, which appears to have amounted to approximately $60,000, was left to the widow absolutely. James' wife has remarried and is now Mrs Pomfret-Brown and, of the four children, the younger three have adopted that surname.

Patricia Barker:

Mrs Barker attended Nelson Girls' College and then Christchurch Teachers' Training College where she qualified as a primary school teacher. It is clear from her own evidence and that of her brother that she had worked to a substantial extent at the orchard before she left home. After qualifying she worked for one year as a teacher and then went to Hawkes Bay where later in November 1956 she married. There are three children of her marriage, a son born 17th November 1957, a daughter born 26th September 1959 and another son born 4th September 1962, all of whom she describes as being now largely independent. Her husband is a farm manager on a family property, the land being held on lease from a trust. He receives a salary of $8,000 with free occupation of the homestead and has other income of about $3,000 from investments. His father died in 1955 and upon the death of his mother, who is now 74, he becomes entitled

in possession to a one half interest in the residue of his father's estate. On the farm they run 3,000 sheep, 70 cows including a small stud. Also in the father-in-law's estate is a house property at Waipawa. Apart from that interest, they own together, one-third to Patricia and two-thirds to her husband, a 50 acre freehold property which was purchased two years ago for $60,000 and upon which they run sheep and cattle. In addition she operates a hay-making business, the income of which fluctuates. She assesses her assets, including the interest in the freehold land, at about $75,000. Between 1976 and 1981 the daughter has received gifts from the mother totalling $8,300 and the legacy from her father's estate is still to be paid.

William Stead:

At the time of his father's death he was aged 20, a full-time student at Canterbury University where he was studying for a degree in chemical engineering and receiving financial support to the extent of some $800 per year from home. He duly graduated B.E. (Chemical) in 1969. He is now 35 and in good health, earning a salary of $37,000 with the free use of a car owned by his employer. He is a director of the employing company, where his responsibility is the design and execution of major water treatment contracts and the general running of the industrial section of the company. His salary is reviewed regularly at the discretion of the directors and there is a superannuation scheme. He was married in 1973. His wife had suffered a bad back injury prior to their marriage and has continuing trouble. Also there is additional expense because of her disability. Their three children are in good health. Their home was recently valued at $102,000 and is subject to a mortgage for $13,500. Apart from a car, furniture and the items bequeathed by his father, he has savings of $2,000 and a $15,000 life insurance policy. He has received gifts from his mother to a total of $10,500.

Application for Leave:

Notwithstanding that the time for making application has expired, provided there has not been a final

distribution of the estate, the Court may extend the time, the only requirement being that such of the parties affected as the Court thinks necessary must be heard. The principles to apply have been considered on a number of occasions. In Re. Brown (1949) N.Z.L.R. 570, O'Leary C.J. saw the problem as follows:-

> " The application must be considered on its merits, and the Judge hearing the application, applying principles which have been enunciated in respect of such applications, has a discretion to grant or disallow the application. From 1909 onwards, there has been a succession of reported cases dealing with such applications, and these were reviewed and applied by Kennedy J., in Sheehan v. Public Trustee (1930) N.Z.L.R. 1. His Honour summarized the effect of these judgments as follows:
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> > 'There has, in my judgment been long and inexcusable delay, and the application for extension of time should, as in Milne v. Cunningham (1917) N.Z.L.R. 687), be refused unless it clearly appears that to refuse it would, in the circumstances, result in manifest injustice' Ibid., 8.
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> I respectfully adopt this statement, and I am of opinion that, although the delay may be long, if it is excusable the application should be granted; and, even if the delay is inexcusable, the order should still be made if to refuse it would, in the circumstances, result in a manifest injustice."

This was commented on by McCarthy J. in In Re. McGregor (Deceased) (1960) N.Z.L.R. 220 at p. 230:-

> " There was here some lapse of time between the coming into force of the Family Protection Act 1955 and the filing of the proceedings; but it is agreed by counsel that that is adequately explained, and that any delay on the part of the plaintiffs is excusable. It was then submitted by Mr McElroy that I should apply the dictum of Sir Humphrey O'Leary C.J. in In re Brown v. Brown (1949) N.Z.L.R. 509; (1949) G.L.R. 357, where he said that although the delay may be long, if it is excusable, the application should be granted and, even if the delay is inexcusable, the order should still be made if refusal would, in the circumstances, result in a manifest injustice. Removed from their context and isolated from the facts of

> that particular case, those words could be read to mean that in every case where the delay is excusable leave must be granted. I cannot accept that that is the position, or that that conclusion was intended by that learned Chief Justice. Clearly, whether leave is to be granted in any particular case must depend upon all the circumstances of that case, including the position and rights of the parties whose interests are likely to be affected by the making of an order. The principle to be applied was, I believe, correctly stated as early as 1909 in Hoffman v. Hoffman (1909) 29 N.Z.L.R. 425; 12 G.L.R. 220, where Sim J. said each application should be dealt with on its own circumstances, and, without attempting to lay down any general rule, it was safe, he thought, to say that an extension of time should be granted in any case where the failure to apply earlier arose from honest ignorance by claimants of their rights (which is the position applying to the plaintiffs in this case) and the defendants will not be placed by such an extension in any worse position than they would have been in had the application been made within the time limited in the statute. As I see it, the issue in each case is: Is it just that leave should be granted?
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> Included in the matters to be considered in a case such as this, where there is a considerable period of time between the death of the testator and the lodging of the claim, with all the uncertainties and difficulties of proof which such a lapse of time necessarily involves, is the question of the strength of the plaintiffs' alleged moral right to provision as it existed at the date of the testator's death. The more manifest it is that there was a breach of duty the more inclined the Court will be to grant leave, even though the delay be long. It is established beyond question that that must be determined by reference to the facts at the time of the testator's death, including the reasonable probabilities of future changes in circumstances : In re Cavanagh (1930) N.Z.L.R. 376; (1930) G.L.R. 184; Dun v. Dun (1959)2 W.L.R. 554."

His decision was taken to the Court of Appeal and upheld, (1961 N.Z.L.R. 1077) but without discussion of the principles upon which the question of delay should be approached.

With respect, I would agree with the approach of McCarthy J. There would seem to be something illogical in separating from the main body of evidence the facts relating to delay and making a separate decision whether it was excus-

able or not; perhaps to come to the conclusion that, viewed in isolation, the delay was inexcusable, but then to allow an application for provision, or further provision, because to do otherwise would be manifestly unjust. I would prefer to endeavour to decide, taking everything into account, what justice in the particular case might require, but recognising that the less excuse that exists for the delay and the longer the delay which has occurred, the more difficult the task of the applicant to demonstrate that there was a failure on the part of the testator and that, if there had been, it was still proper to rectify it. There must be finality in all matters and the longer others have had cause to believe that the testamentary benefits, or benefits upon an intestacy, which have accrued to them will not be disturbed, the harder it will be to satisfy the Court that they should be.

In the present case it seems that the widow had had some discussion with the solicitor to the estate regarding the provisions of the will but accepted his advice that nothing could be done to remedy the position. The daughter's attitude was that, while she was not happy with her entitlement, she accepted the position and did not think there was really anything she could do about it. She recognised that her father had left the orchard to James because he was a dedicated orchardist and that was his life and her father had recognised the fact that he had been working there virtually since school days. She had taken legal advice herself within a short time, but it seems that this was directed rather to the question whether she could get her legacy without having to wait until her mother's death. She agreed that the cruical event was the remarriage of her late brother's widow and that prior to that she had given no real thought to challenging the will. There was no discussion between her and her brother, William until after the remarriage. It would seem, and indeed she accepted, that if her brother James had lived and the property had not been sold she would not have made application at all.

Her brother, William, the other plaintiff, was 20 at the time of his father's death. He states that he was

not aware of the Family Protection Act, which can be understood, but knew without detail in a general way only that his mother had had discussions with the solicitors. He had been informed by his mother and his sister that it was not considered worthwhile to try and upset the will. He did make some enquiry in 1971, when he asked a solicitor to look at a copy of the will, but was assured at that time that nothing could be done. He was away in England for some time after qualifying and did not return to New Zealand until after his brother had died. He still believes that there was no way in which he could challenge the provisions of the will and therefore took no steps until it became evident in late 1977 and early 1978 that his late brother's widow was contemplating remarriage.

On the other side of the coin, from his father's death in 1968 until his own in 1975, James Stead lived and worked in the belief that the orchard into which he was putting his efforts belonged to him; it had vested on his father's death, subject only to his mother's interest, and consequently in the belief that he was able to provide for his wife and children accordingly. I cannot but think, on the one hand, that if James had lived and continued to farm the orchard property in the way which his father had anticipated, his sister and brother would have been content to let the provisions of the will stand and also that, if they had seriously felt that their father, in the circumstances in which he was placed and the limitations upon his estate, had failed in his duty to them, they would not have rested but would have sought further advice, if not within the prescribed time, at least within their brother's lifetime. That they should regret that the proceeds of sale of the farm will go in part to their late brother's widow who has remarried is entirely understandable, but I do not see that as affording excuse for the delay in making application. If it was a question of saying one way or the other, was the delay excusable or not, I would say it was inexcusable but all the facts must be taken into account.

Application for further provision:

I turn now to a consideration of the provisions

made by the testator for his children. The testator was in a difficult position. The estate was not large and there was one substantial asset, the orchard with the stock, implements and plant required for its operation as a business. His first responsibility was to his wife during widowhood and after that to his children. Of these, James' training was entirely in horticulture and, if the orchard were to continue, clearly he was the one to operate it. The daughter had received a proper education and was qualified to earn a living but, in any event, had married and, if the couple could not be said to be well off initially, they must have had sufficient and the daughter's husband had a vested interest in his father's estate subject to his mother's life interest. The younger son had also been given a good education and was well-qualified.

We must look at the position as at the testator's death. As stated In Re McGregor (supra) at 1082:-

> " In the 1955 Statute the matter is treated somewhat impersonally; the Court is authorised to make an order where a person dies testate or intestate and in terms of his will or as a result of his intestacy adequate provision is not available from his estate for the proper maintenance and support thereafter of the persons by whom or on whose behalf application may be made under the Act.
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> The terms of the New South Wales Statute, very similar to those of our Act of 1908, was considered by the Privy Council both in Bosch v. Perpetual Trustee Co. (1938) A.C. 463; (1938) 2 All E.R. 14, and more recently in Dun v. Dun (1959) A.C. 272; (1959) 2 All E.R. 134. It was held that it was the action of the testator which had to be reviewed - where he had disposed of his property
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> > 'in such a manner that the widow, husband, or children ... or any of them ... are left without adequate provision for their proper maintenance, education or advancement in life.'
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> Their Lordships held that the material date in determining whether the applicant had been so left without adequate provision was the date of the testator's death, that the Court in deciding on the adequacy of the provision should have

> regard to the facts as they existed at the date of the testator's death and not as they existed at the date of the application, though in so doing the Court should take into account such happenings as the testator might reasonably be expected to have foreseen immediately before he died, that is circumstances not outside the range of reasonable foresight.
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> In New Zealand this principle had long been operative, certainly since Welsh v. Mulcock (1924) N.Z.L.R. 673; (1924) G.L.R. 169, which recognised that a testator's moral duty to make provision could only be measured by reference to the facts as they were at the date of his death including of course any reasonable probabilities as to change of circumstances."

The first question is what the testator should reasonably have foreseen as the likely course of events in the future and, in particular, the changing value of the farm land. There is no doubt he must have been conscious of the high prices being obtained in the vicinity; his widow described how he was worried about the development, especially when the city boundary became the northern boundary of their own property. While a good deal was said in the evidence as to the knowledge the testator must or ought to have had of the likelihood of the farm rising substantially in price, these were rather general statements and assumptions. The evidence which warrants closest attention is that of expert valuers and town planners.

For the plaintiff A.W. Gowans of Nelson, Public Valuer, stated that the capital value of the property had varied as follows:-

1963	$29,930
1969	36,550
1973	80,000
1977	216,000

He said that up until 1970 the market value of orchards in the Waimea County area was similar to the Government valuations and he concluded that the death duty valuation would be close to the market value of the orchard, if sold as an orchard at that time. Stoke was incorporated in Nelson in August 1958

and the southern extremity of the city became the northern boundary of the orchard and it has remained that way ever since. Although the Stoke area was incorporated in the city, it retained large blocks of rural land which were not rezoned residential until December 1967. The demand for residential sections in the Nayland area in close proximity to the Stead orchard but inside the city boundary increased. Some land within the city boundary was purchased in July 1965 by a syndicate, remained zoned Rural until 1967, was farmed as an orchard until 1970 and then subdivided. The valuer considered that this development marked the start of the speculative building boom in the Stoke area which carried on within the city boundaries until the early 1970's. After that, speculation extended into lands still situated in the Waimea County Council culminating in the sale of the Stead property in June 1976 for $226,150. He thought it could fairly be said that, prior to the death of Mr Stead, comparatively high prices were being received for orchards which had been incorporated into the city of Nelson. This may be so, but it is only there that residential subdivision is permitted.

On the other hand Mr B.B. Jones, Registered Valuer gave evidence by affidavit of the effect that land in the Waimea County which includes the orchard property, under the County's operative district scheme, is zoned Rural A, a zoning for land of high actual or potential productivity for the production of food. While the Nelson boundary was altered in August 1958 it has not been altered since and all the subdivisions that have taken place have been within the Nelson city. From 1964 onwards some residential subdivision within the city of rural land was permitted, following applications for specified departures, in anticipation of the 1967 rezoning of the area to Residential. The Nelson City planning scheme has been operative from the 1st December 1967 and, although changes have been made to the residential zoning within the area, no alterations to the city boundary have occurred and in his opinion it is unlikely to be extended to the south. He notes that there was a slow increase in population in the Nelson District 1966 to 1971 and thereafter a slight decline in the rate of increase from 1976 to date. Although, as at January 1968, there had been a trend towards

the subdivision of orchards to residential use such subdivisions had been within the Nelson city boundaries. He expressed the opinion that, at that time, there was an overall adequate supply of such land for housing purposes for the reasonably foreseeable future and noted that there was some residentially zoned land in the Nelson city area which was still in rural use. He considered that, if the orchard had been sold in January 1968, the market value would have been close to the figure assessed for estate duty and for the 1969 Government valuation, $36,550. He expressed the opinion that, as at January 1968, the dramatic increases in the price of land which were to follow through until 1976 could not have been reasonably foreseen, either by a person whose business was connected with the sale and purchase of land, or otherwise; that it could not have been reasonably foreseen that the Stead Estate would have obtained the high price which it did in 1976. There was an element of speculation and expectation that the subdivision of the district would be permitted in the reasonably foreseeable future which was without foundation.

Mr D.A. Bryce, a Town & Country Planning Consultant had been asked for his opinion on certain points:

(1) Whether a reasonable and prudent man standing at January 1968 would have considered it likely that planning permission would have been granted to subdivide the Stead orchard into residential lots.

(2) Whether such a man standing at April 1976 would have considered such a consent likely.

(3) Whether such a man standing today would consider such a consent likely.

(4) Whether such a man standing at January 1968, April 1976 and today would have considered it likely that the Nelson City Council boundary would have been moved south to incorporate the Stead orchard and therefore facilitate subdivision. In his opinion such a consent and such a boundary alteration would have been very unlikely in 1968, even more unlikely in 1976 and extremely unlikely today. He gave in full detail the factors upon which he based his opinion, but these need not

be stated here.

Finally, Mr N.L. McBeath, Christchurch, a Consultant Economist, was asked for his opinion whether the increase inthe market value of the property, that is from the valuation of $36,550 at the time of death, 21 January 1968, to the price obtained on 7 April 1976, $226,150, was outside the range of reasonable foresight as at January 1968. In his opinion, the increase was outside that range. In coming to this conclusion he considered the matters which determined land value, studied the population trends in the Nelson Urban area and the trends in farm land and prices. He could only conclude that the increase was so much greater than could be explained by reference to the calculations he made that some special local or speculative element entered into the purchaser considerations, and that such an increase was well beyond the range of reasonable foresight as at the end of 1967. Based on past trends up to the end of 1967 he would then have expected that the Stead orchard property would have increased in market value over the next eight years by 1.5 to 3 times.

While no doubt there was considerable speculation, had the testator sought advice as to the prospects, it seems that the advice he would have received would have been generally on the lines of the opinions expressed by these experts; while certainly farm land in the city was rising rapidly in value with the prospect of being rezoned residential, that his land lay outside the city, was zoned Rural A and there was no cause to believe that the boundary would be moved or the zoning changed. In this situation, while he should no doubt have foreseen that there would be an increase in value, such increase as would flow naturally from improvements that might be made and from the effect of inflation, I am unable to think that he could reasonably hæ been expected to foresee that the land would have to be sold so soon after his death and that it would reach such a price.

In order to provide for his wife, both by way of income and to preserve the home to which he was accustomed, the orchard business had to be carried on. James could

hardly be expected to perform the work of doing this without the reasonable prospect of owning the land in future. Possibly he could have been required to raise finance to provide his sister and brother each with a full share of the estate after their mother's death, but he would have been in a position of uncertainty throughout her lifetime and not have known whether the orchard would ever have become his or not. The father, who had experienced hardship in his own lifetime in trying to make a financial success of the orchard through depression years, may well have been right in thinking that James should be able to receive the orchard without a financial burden.

The most the father could have provided in the situation, as it would appear to him, would have been to charge the property with a modest legacy in favour of each of his other children. Possibly he should have foreseen the possibility of James dying before the widow, but he could not foresee when that would be or what James' status might be, whom he might then have dependent upon him. One cannot readily see a way in which the father could have made further provision for the other children in such circumstances. On the other hand, the daughter and the younger son have shown that they have been able to manage in a manner which was to be anticipated. Clearly they are competent and successful people. Presumably from an income which is now more than sufficient for her, the mother has been able to make gifts to them and their brother, James, in his will did recognise to a degree the fact that their father had been unable to do much for them financially.

Overall, I can only say that a situation has developed which the testator could not reasonably have foreseen and, while one sympathises with the plaintiffs, this cannot be used as a reason for granting them further provision from the estate. Possibly, if an application had been made in due time a Court might have directed that the orchard be charged with a legacy in favour of each, but an entirely different situation would then have existed and no-one can say with precision how the testator's exercise of his testamentary powers would then have been viewed.

Taking all things into account I am not satisfied that the testator failed in his duty and, accordingly, leave to apply is refused. It was requested that costs be reserved and this is done.

Casey J.

Solicitors:

Ralfe & Co., Nelson, for Mrs Pomfret-Brown
Dignan, Armstrong & Jordan, Auckland, for Plaintiffs
Weston, Ward & Lascelles, Christchurch, for Trustees
Young, Hunter & Co., Christchurch, for Children & Grandchildre