

IN THE HIGH COURT OF NEW ZEALAND
HAMILTON REGISTRY

M.19/79

208

BETWEEN: P. MEADWAY
Applicant

A N D: P MEADWAY, A LOW
and EI HART as
Executrices and Trustees
of the Estate of
H MEADWAY,
deceased.

Respondents

Hearing: 14 March 1984
Oral Judgment: 14 March 1984
Counsel: J.A. Faire for Applicant
C.P. Gallagher for Respondents

(ORAL) JUDGMENT OF BISSON, J.

This is an application by the widow of the late
H Meadway under the provisions of the
Matrimonial Property Act 1963 whereby she seeks orders in
her favour in respect of the matrimonial property.

Mr Faire has appeared for the applicant and has made
submissions in writing, which are very helpful to the Court
in considering this case and being able to give a short oral
judgment immediately following the hearing.

Mr Gallagher has appeared for the two daughters of the
marriage and they are also the residuary beneficiaries under
the Will of the deceased and it is pleasing to see that they
offer no resistance to the application made by their mother.

The history of the marriage is undisputed, namely that the parties were married in and had a happy marriage of some years. There were the two daughters of the marriage, already mentioned, and the family lived on a farm property at This property was acquired by the husband after the marriage, from his father, together with some stock, and it appears the purchase was finalised principally out of income from sheep farming. At a later stage, an additional area of land was acquired by the husband from his father and he subsequently changed to cattle farming. His success can be judged by the size of his Estate, which had a final balance for duties of \$498,613.12. That does include some Notional Estate of about \$50,000, but it is significant that the farm property was valued at the date of death, which was in 1977, at \$280,000, and the substantial assets of the Estate, were subject to total debts of only \$30,608.

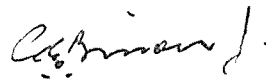
The applicant was in all respects a very dutiful wife, fully performing the functions of a wife and mother in the family home, and also as a farmer's wife, assisting in various ways such as accommodating and feeding shearers in the home and feeding orphan lambs and generally assisting within her ability with farming work. She is undoubtedly entitled to a substantial share in the matrimonial property and I have regard to the decision of the Privy Council in Haldane v Haldane (1976) Vol. 2 N.Z.L.R. p. 715; in particular that the Court does not approach the question of contribution in an asset by asset manner.

The evidence does not indicate that the applicant took an active part, or any part, in actual farm management, so that the success of the farming business would seem to be entirely due to the husband, and again, although there is no express evidence, one would assume that the husband was favoured in one way or another by acquiring these two farm properties from his father.

Having regard to these two aspects of the matter, in my view having regard to the respective contributions of the husband and wife to the matrimonial property, a just Order in favour of the applicant would be to award her a one-third share in all matrimonial property, the assets and liabilities being set out in paragraph 4 of the applicant's affidavit of 8 March 1979.

Mr Faire has submitted to the Court an amended form of draft order and orders are now made in accordance with that draft. The provisions for a cash payment of \$2,019.06 in paragraph 4 brings to account the assets not covered by paragraphs 1, 2 and 3 and the liabilities of the deceased and includes an adjustment in respect of the motor vehicle taken by the applicant under the Will. As the respondents approve this figure, it is approved.

No order as to costs is sought.



Solicitors:

Stace, Hammond & Co, Hamilton - for Applicant

Curtin, Gallagher & Co, Hamilton - for Respondents