

IN THE HIGH COURT OF NEW ZEALAND
AUCKLAND REGISTRY

M. 483/85

3 X

1379

IN THE MATTER of the Matrimonial
Property Act 1963
and its amendments

AND

IN THE MATTER of the Matrimonial
Property Act 1976

BETWEEN

W
ELLIOTT of Auckland,
Widow

Applicant

AND

THE NEW ZEALAND
GUARDIAN TRUST
COMPANY LIMITED a
duly incorporated
trust company at
Auckland and B
NUTSFORD of
Auckland, Solicitor,
and P
STAINBANK of Natal,
South Africa Married
Woman, as executors
and Trustees of the
estate of J
ELLIOTT formerly of
Auckland Retired
Farmer now deceased

Respondents

Hearing: 9 December 1985

Counsel: J.G. Connell for Applicant
D.M. Piggin for Respondents
Miss M. Sharpe for Beneficiaries
N.W. Ingram for Great-Grandchildren

Judgment: 9 December 1985

(ORAL) JUDGMENT OF CASEY J

This is an application under the Matrimonial Property Act 1963 by Mrs Elliott, the widow of the late J Elliott, retired farmer, who died at Auckland in December 1984. She claims, after a marriage that has lasted 60 years, an interest under the Act by virtue of her contributions during that time, - particularly in the earlier years - towards the farm, comprising not only financial assistance at a time when it was badly needed, but also work on the property itself. I am quite satisfied from the affidavits that she carried her full share of the work expected from a hard working and responsible farmer's wife over those years particularly in the 30's. Fortune was more favourable to them later when the farm was subdivided but nevertheless I am in full agreement with the attitude of those members of the family able to make the decision, that her efforts justify a substantial award in recognition of the support and services she rendered over so many years.

I have been informed that a payment of \$400,000 from this comparatively large estate is sought for that recognition, and I accept this as reasonable in the circumstances. Counsel for the Executors and for the great-grandchildren abide the order of the Court and other beneficiaries consent to such an order being made. At counsel's suggestion I direct that the payment come out of residue, that it be payable as at the date of judgment with interest from then, the amount to be calculated as that actually received or earned on this sum in the hands of the Trustees over that period. Mr Ingram will submit a memorandum of his costs for the great grandchildren and no order for costs

is sought for the other interests. Counsel may submit a draft order for approval.

W. Casey J.

Solicitors: Connell & Connell for Applicant
D.M. Piggin, Barrister for Respondents
Miss M. Sharpe, Barrister for Beneficiaries
N.W. Ingram, Barrister for Great-Grandchildren