

IN THE HIGH COURT OF NEW ZEALAND  
HAMILTON REGISTRY

M.97/86

1851

NOT  
 RECOMMENDED

IN THE MATTER OF The Estate of the late  
JOHN YOUNG DICKINSON  
 formerly of Hamilton,  
 Retired Farmer, now  
 deceased

BETWEEN GLADYS JEAN DICKINSON  
 of Hamilton, Widow  
Plaintiff

A N D ALAN BANNIN of Morrinsville  
 Chartered Accountant and  
DAVID ROY BUCHAN of  
 Hamilton, Solicitor  
Defendants

Counsel: P.R. Heath for Plaintiff  
 S. Menzies for Defendants

Hearing and  
Judgment: 8 December 1986

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ORAL JUDGMENT OF GALLEN J.

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The plaintiff in these proceedings Mrs Gladys Jean Dickinson is the widow of the late John Young Dickinson. She seeks an order under the provisions of the Matrimonial Property Act 1963 and in order to bring the application, she seeks an order giving leave to bring the proceedings out of time. Having regard to the circumstances, I think it is appropriate

that there should be an order in this case and leave will be granted for the application to be brought out of time.

The circumstances of this case are slightly unusual. The marriage was a long and happy one extending over some 47 years. It appears from the affidavit that at the start of the marriage, neither party was in possession of very much in the way of assets. They were farmers and by dint of hard work on the part of every member of the family, the deceased was able to accumulate a substantial estate. I think it is important to point out that during the early years in order to supplement the income from the farm, the deceased operated a substantial hay baling business. This required contribution in terms of time and effort from every member of the family and the affidavit of Mrs Dickinson indicates the extent to which she was required herself to contribute to this aspect of the family enterprise.

The farm was subsequently sold and it appears that the realisation of proceeds of the farm were wisely invested in shares which have substantially increased in value. At the date of death of the deceased, his estate was worth approximately \$551,000. I am informed from the Bar that the increase in the value of the shares of which it primarily consists, is something in excess of \$1.3 million.

In a case such as this, a strong claim can be made for the award of a substantial proportion of what is genuinely a family accumulation of assets to a party. Taking into account the principles which have been set out on a number of occasions, I think it would be appropriate in this case for the widow to receive a rather more substantial order than she has in fact put before the Court as being appropriate in the circumstances of the case. The marriage extended over some 47 years. It is clear that during the whole of that time, there were substantial contributions made to the accumulation of assets.

Mr Heath in his careful submissions, has submitted that this would be an appropriate case for an award of something in the vicinity of 40%. I should have agreed to that but the applicant has limited her claim to something in the extent of one-third of the estate and suggests an award would be sufficient if an order was made in her favour awarding to her something of \$200,000 from the estate.

Having regard to the circumstances, I am prepared to make an order granting leave to bring the application out of time.

I am prepared to make an order in terms of that sought by the applicant which will yield to her from the estate, assets to the value of some 200 thousand dollars. In order to give effect to that, it will be necessary for counsel

to give consideration to the form of the order and leave is granted for a draft order to be submitted on receipt of which a final order will be made. In addition, leave is granted to any party to apply to the Court with respect to any aspect of the matter.

*RJ Hall*

Solicitors to the Plaintiff:

Messrs Stace, Hammond,  
Hamilton

Solicitors to the Defendant:

Messrs McLeod, Bassett, Buchan  
and Partners, Hamilton

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