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A growing trend

More and more cases of proprietary estoppel are being reported, and many others must settle before reaching court. So what does it mean, why is it relevant, what form does it take and where might it arise?

The requirements for proprietary estoppel are, broadly, that A has acted to his detriment relying on a belief that he either has, or will be given, a right over B's property and B knew of, or encouraged, the belief.

The relief granted by the court will be such as to do the minimum necessary to satisfy the equity and will be proportional to the detriment suffered.

The existence of a valid claim means that A will be receive an interest in the property but in the case of a claim by A against B's estate, it will have the secondary effect of reducing the value of B's estate for inheritance tax purposes.

Acquiescence or encouragement by B can take varying forms. It may, for example, be standing by in silence whilst A presses on unwittingly in reliance of a belief.

So what's a plum example of proprietary estoppel?

Lone ageing parent, B, lives in the family home with her youngest son, A. Over a growing number of years A cares for B by tackling the shopping, housework and general maintenance of the home (think Ronnie Corbett in Sorry) and is told that, aside from being a very good boy, the home will be his when she's gone.

When B finally dies without a will A's two older siblings hot-foot it home for their equal share of the spoils. A should make a claim for proprietary estoppel to increase his share of the estate beyond a one third equal share.

If you have any queries you can phone or email Glenn Smyth or Rod Smith on glennsmyth@boltburdon.co.uk or rodsmyth@boltburdon.co.uk or phone 020 7288 4700. Our full range of services includes Financial Planning, Trusts Wills & Probate, Property, Matrimonial and Family Law, Commercial Law, Commercial Dispute Resolution, Debt Collection, Compensation Claim Litigation. Visit our web site at www.boltburdon.co.uk Regulated by the Law Society. Authorised and regulated by the Financial Services Authority. To stop receiving this bulletin, reply stating 'unsubscribe'.