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Case summary

Case ID

UKSC/2022/0015

Parties

Appellant(s)

Nalini Hirachand

Respondent(s)

Sheila Hirachand

Katan Hirachand

Issue

This appeal concerns the Inheritance (Provision for Family and Dependents) Act 1975 (the "1975 Act"), which gives courts the power to order a lump or recurring sum to be paid out of the estate of a deceased person for his or her family and dependants. Section 3(1)(a) of the 1975 Act provides that, in determining whether and in what manner the court should exercise such a power, it shall have regard to "the financial resources and financial needs which the applicant has or is likely to have in the foreseeable future" (among other matters). The question for the UK Supreme Court is: was the Court of Appeal wrong in law to decide that a conditional fee agreement ("CFA") success fee is a debt the satisfaction of which may constitute a "financial need" for which the court may make provision in an award under the 1975 Act?

Facts

The appellant is the widow of Navinchandra Hirachand (the "Deceased"), who died in August 2016. The respondent is the daughter of the Deceased. In his will, the Deceased left the whole of his estate to the appellant. In November 2017, the respondent brought a claim under the 1975 Act for reasonable financial provision from the Deceased's estate. The judge at first instance awarded the respondent a lump sum calculated by reference to her "financial needs" within the meaning of section 3(1)(a) of the 1975 Act, including an amount referable to the respondent's liability to pay a CFA success fee. Under section 58A(6) of the Courts and Legal Services Act 1990, the respondent would not have been entitled to recoup the success fee by way of a costs order made in her favour. The appellant appealed this aspect of the judge's decision to the Court of Appeal. The Court of Appeal upheld the judge's award and concluded that the respondent's liability for the CFA success fee was a debt the satisfaction of which was a "financial need" within the meaning of section 3(1)(a) of the 1975 Act, for which the court might in its discretion make provision in an award under the 1975 Act. The appellant now appeals to the UK Supreme Court.

Date of issue

10 January 2022

Judgment appealed [\[2021\] EWCA Civ 1498](#)

