



Sea air and pleasant atmosphere; not enough



By Miranda Marshall – Director at
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The case of Lothian v Dixon and Webb was heard in the High Court in November last year and has just been reported. Like many legal cases there is a story behind it which, in this case, has a happy ending.

Helen Lothian was a cousin of Helen MacArthur. Mrs MacArthur owned a seaside hotel in Scarborough which she had inherited from her parents. Her Will, made in 1983, left it equally to her cousins (Helen Lothian and Patricia Webb); however, she had gradually lost contact with Mrs Webb.

In 2010 Mrs MacArthur discovered she had inoperable terminal cancer and asked Mrs Lothian to live at the hotel, to look after her and to help run the business up to her death; in return for which she would leave Mrs Lothian all she owned. This was a big upheaval for Mrs Lothian as she and her husband lived in Scotland and had their own business there.

Mrs MacArthur gave instructions to her solicitor to make the new promised Will but died in 2012 before she could sign it. By then, Mrs Lothian had spent most of the previous two years at the hotel, running it and looking after Mrs MacArthur. Mr Lothian came down from Scotland at weekends to help.

The estate was worth over £1million.

Mrs Lothian brought a claim for *proprietary estoppel*. To bring such a claim successfully it must be shown to the Court that

1. an assurance;
 2. has been relied on;
 3. to the detriment of the person promised,
- to such a degree that it would be “unconscionable” not to grant relief.

By law, even if the Court agrees that relief is appropriate, the person promised will not necessarily get all that they were promised. The amount of detriment suffered is taken into account so that the order is proportionate. His Honour Judge Roger Kaye QC decided that here the detriment suffered was substantial. Even though there was no legally binding agreement, Mr and Mrs Lothian had changed their lives entirely, for an indefinite period, to help Mrs MacArthur.

Mrs Webb argued that the ‘pleasant atmosphere and sea air’ and free board and lodging were enough compensation; but the judge disagreed. Mr and Mrs Lothian were awarded the entire residuary estate.

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