



For a Better Result.....

Computers Run Our Lives – But Just How Far?

In the recent decision of Mahlo v. Hehir [2011] QSC 243, the question was determined in favour of humans.

A deceased person typed on her home computer a document in the form of a Will, two (2) weeks before she died.

The Court had to determine the question of whether the document on her computer was a Will.

BACKGROUND

Section 18 of the *Succession Act 1981 (Queensland)* provides that a document can be construed by the Court as a Will even though all of the provisions that relate to its execution have not been complied with, that is, it being in writing and witnessed by two (2) persons.

There was no evidence of the document having been printed.

The document, in its terms however, did indicate that it was a Will of the deceased person.

The deceased person had made previous Wills with her solicitor and of course, the “*computer Will*” was on terms different to those Wills.

The Court in giving Judgment determined that the electronic document was a document of the deceased that could be a Will. The question was whether it was intended by the deceased to be a Will. This must be distinguished between a document which was intended to be a Will rather than something amounting to a step towards the making of a Will.

In conclusion, the Court was not satisfied that the electronic document was a Will. We consider that part of the Court’s reasoning was that because the deceased had made Wills in the past that she should have known that she had to do more than type it on her computer due to her recent experience in making a Will.

So although the Court thought that the deceased intended to make a new Will, the Court could not find that the document was in fact the intended Will of the deceased person.

COMMENT

In law there are procedures which on our view should be strictly complied with in such serious matters as a Will. Therefore, a Court would only in very certain circumstances, seek to override these procedures to declare such a document as a Will.

For more information about your licence, please contact *Robert Bakker*

**298 Oxley Avenue
MARGATE QLD 4019**

3883 3700

www.rblawyers.com.au

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