COLLAS CRILL

R. Hitchens, Levy and S. Hitchens v. Hill and Lloyds TSB Offshore Trust Company Limited

MAY 2015

Collas Crill represented three siblings in proceedings against their estranged sister, challenging a purported transfer of their mother's 100% beneficial interest in the share capital of a Guernsey-based company to their sister.

The purported transfer was concluded the day after their mother was diagnosed with cancer, and approximately three weeks before she died from her illness. The Plaintiffs' primary argument was that the purported transfer was brought about by their sister exercising undue influence over their mother. Following a two week trial, the court found that the defendant has acquired a measure of influence or ascendancy over her mother who reposed trust and confidence in her.

The transaction was not readily accounted for by ordinary motives and no adequate explanation had been forthcoming to establish that the mother was acting of her own free volition. The transaction was declared not valid for the reason that the mother's signature on the transfer document was obtained by undue influence.

The case is important to Guernsey legal practitioners and local trust companies as it gives valuable guidance on how the court will deal with allegations of undue influence and lifetime gifts. This is thought to be the first official judgment from the Royal Court of Guernsey concerning this issue.

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