

Understanding is all

Julie Butler explains why it is vital to understand a partnership and when a partnership share becomes an asset.

The Lane family farming partnership dispute might just appear to be another farm estoppel dispute – see *Lane v Lane and others* [2024] EWHC 275 (Ch). However, the case is key in understanding partnership agreements, succession and when a partnership ends. There is one clear message – the partnership agreement *must* be read and understood in practical terms as well as just signing the agreement.

This case concerned the interpretation of a will in relation to a disputed gift and the suitability of the current executrix to manage the estate. The court ruled that the gift had not adeemed and that the executrix should be replaced due to concerns regarding the administration of the estate.

The factual background involved the administration of the estate of Monica Lane, where questions arose about the ademption of a gift under the will and the conduct of the executrix, Susan Lane. Karen Lane, acting as a personal representative of David Lane's estate, contested the ademption – the complete or partial withdrawal of a legacy by an act of the testator during their life – of the gift and sought the removal of Susan as executrix, proposing an independent solicitor to manage the estate instead. It is worth noting that Monica prepared 'homemade' wills in 2005 and 2013.

The cast

Let's look at the players in the drama and the family relationship.

- **Monica Lane, died 2019:** Testator, mother of Susan and David. In farming partnership with son David.
- **David Lane, died 2021:** Son of Monica, brother to Susan, husband to Karen. In farming partnership with mother Monica. He fell ill during 2020.
- **Susan Lane:** Daughter of Monica, executrix of Monica's will, sister to David.
- **Karen Lane:** Wife of David, executrix of David's will.

Key points

- *Lane v Lane and others* is key in understanding partnership agreements, succession and when a partnership ends.
- The case concerned the ademption of a gift under the will and the conduct of the executrix.
- It was determined that, after a partnership has ended, each partner still has a 'share and interest' in that partnership until the partnership has been wound up.
- Farming partners must understand the partnership agreement.



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Monica's will – the administration

Monica's will was clear that her share and interest in the partnership passed to David with whom she was in partnership. However, there was a clause stating that the partnership would end if a partner became permanently incapacitated which is indeed what Susan claimed to be the case prior to Monica's death. As such, her partnership share could not be passed on to David as it did not exist. David's widow, Karen, contested this.

The legal principles discussed include the Civil Procedure Rules on costs, the court's discretion in awarding costs, and the indemnity basis for trustees and personal representatives. The case also references the decision in *Re Buckton* and the guidance provided by *Lewin on Trusts* regarding the costs of trustees and beneficiaries in similar claims. Ultimately, the court's decision emphasises the importance of proper estate administration and the court's role in resolving disputes arising from the interpretation of wills and the conduct of executors.

Was there still a partnership interest?

The court had to decide whether Monica still had a 'share or interest' in the partnership when she died or had this become a debt of the partnership under Partnership Act 1890, s 43? If it had become a debt, it would pass back to Monica's estate to be distributed as appropriate. If it was still a partnership interest on death, then it went to David's estate.

It was determined that, after a partnership has ended, each partner still has a 'share and interest' in that partnership until the partnership has been wound up – that is, until the partnership debts have been paid and the remaining assets have been divided among the partners. The meaning of the phrase includes the s 43 debt, but also other important rights, such as the right to be part of the winding up process. The partnership would have ended on Monica's death even if she had not been incapacitated – David would have been the only

remaining partner and a partnership by definition must have more than one partner. In principle, it should also apply to lifetime transfers of partnership interests by attorneys.

The court therefore decided that Monica had a share and/or interest in the partnership at the date of her death that passed to David's estate, as was the intention of the will. As a High Court ruling it sets a precedent and has a lot of considerations for farmers and farm advisers. It clarifies that a partnership share or interest ceases to be a partnership asset when the partnership is *wound up* and not simply at the point of dissolution (para 58):

'Any changes in the nature of the share at the moment of dissolution do not change it substantially or fundamentally, because the core economic rights to receive a sum produced by the winding up remain, as they would on death.'

Therefore the court effectively found in favour of Karen Lane on this issue and the gift in question had not ademed.

Choice of executor/executrix

When it came to whether or not the executrix should be replaced, the judge concluded:

'...having reflected carefully, my clear view is that the beneficiaries would be better served by the appointment of an independent professional administrator:

- (1) I have serious concerns about the administration of the estate for the reasons above and consider that it has not been administered as it should in a number of respects.
- (2) There has been continual friction in the administration of the estate in the respects I have set out given the relations between Susan and Karen, and I think it is better to grasp the nettle and bring in someone who will certainly be able to deal efficiently with estate administration, rather than prolong the problems of the estate.
- (3) In the long run, sticking with a set-up that is causing problems will likely incur the greater cost...

'Given the limited liquid funds in the estate, I encourage the beneficiaries to cooperate with the new administrator and consider carefully any proposals she makes in order to minimise the costs to the estate.'

It is clear that Susan's conduct as executrix raised serious concerns, warranting her replacement. The judgment also addressed the costs of the claims, ordering Susan to pay Karen's costs for the removal claim and allowing the costs of the construction claim to be paid out of the estate.

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What farmers can learn

This case clearly shows the need for farming partners to understand the partnership agreement and to really read what they are signing up for. Professionals should explain the practical implications of any official documents well in advance.

While the case does provide clarity, it does not mean that uncertainty about the law in this area is settled. As always, it can still throw up surprising questions, reinforcing the need for a sound, written agreement, especially for farming families. ●

Author details

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