

Lessons in avoiding farming disputes

Julie Butler and **Libby James** discuss the lessons that can be learnt from the decision in *Maile and others*.

Disputes among farming families are legendary and for those not brought up in farming this can often be difficult to understand. Against that backdrop, we focus on the High Court judgment in *Maile and others v Maile and others* [2025] EWHC 2494 (Ch), a proprietary estoppel claim brought by two grandsons claiming entitlement to their deceased grandmother's farm.

History of the farm and the claim

The facts were that West Hook Farm had been in the Stevens family since 1929. Mary Stevens owned and operated the farm for years before she died in March 2020 aged 96. Her estate included 170 acres of mixed arable and livestock land, a six-bedroom farmhouse and three holiday cottages. It had a total value of £2.65m at the time of death.

She had two daughters, Ruth and Sheila. Ruth was married to Peter Maile and they had two sons – Steven and John Maile (the claimants). Sheila was married and had two daughters.

Mary lived at the farm with Ruth's family – some outside observers might consider the living arrangements too close – and the family continued to occupy the farmhouse and work the farm after Mary's death. In her will, made in 2006, Mary left her livestock and deadstock to her two grandsons. She also left £10,000 to each of her granddaughters and the residue of her estate – including the farm – to her daughters equally. In 2011, she made a codicil that left the farm to her grandsons, but under new codicils in 2016 and 2017, the farm was left to the daughters.

After her mother's death, Sheila received a probate claim from the claimants in which they alleged that Mary had



promised they would inherit the farm, and they had relied on those promises to their detriment. They felt they were entitled to the farm by way of proprietary estoppel, that Mary lacked testamentary capacity to make the 2016 and 2017 codicils and had been unduly influenced by her and Sheila's solicitor.

Sheila made a counterclaim for possession of the farmhouse and farm, and for mesne profits relating to the unlawful occupation of the farm since March 2021, ie 12 months after the date of Mary's death. Mesne profits are payments made by a person who occupies land without the owner's permission after a tenancy has ended or a court order has been granted. They represent damages for the use of the property. The counterclaim proved successful so that payment for use and occupation of the farm was due. This broadly aligned with the rental value of the farm and residential properties from March 2021 plus interest. This is a real stand-out point and something that may deter future claims – although that seems unlikely.

During the ten-day trial, the judge heard from witnesses on both sides and evidence on four expert issues involving valuation, forensic accounting, forgery and testamentary capacity. That's quite a support team for a family dispute.

The problems of estoppel

Proprietary estoppel has become an increasingly familiar feature of family farm-related litigation, often advanced by the adult children of the original landowners. Frequently claimants are well into their 50s or 60s by the time of the claim and believe they have arranged their entire lives around assurances of future inheritance. Probate claims, which might include undue influence allegations, capacity disputes or suggestions that the deceased failed to properly understand the arrangements they were making are often pleaded in the alternative. But when is an assurance clear enough to establish

Key points

- The case concerned a proprietary estoppel claim bought by two grandsons claiming entitlement to their deceased grandmother's farm.
- The farm had been willed to the grandsons but this was overturned by subsequent codicils.
- The judge ruled that the deceased had not been unduly influenced when making the 2016 and 2017 changes.
- Importance of focusing on practical considerations as well as on succession planning.

a proprietary estoppel claim? How does this interplay with partnership arrangements? How strong is the partnership agreement? What about probate claims? Is the claimant's age relevant when considering detriment?

The *Maile* case affirms the elements of proprietary estoppel as a doctrine while also signalling a firmer insistence on clarity of assurance, genuine reliance and meaningful detriment. It is of particular interest to all farm advisers and particularly for those defending proprietary estoppel claims where assurances may be more generalised, as may be the case if the claim comes from the next-but-one generation, and the reliance and detriment are harder to prove. For farmers themselves, they must have strong documents in place when they make promises.

Proving reliance is the causal link between the representations and the detriment suffered. A claimant has to show that they would not have acted as they did if the representations had not been made. The judge in this case did not accept that the claimants relied on the assurances made. Indeed, one of the grandsons admitted that he would have worked on the farm irrespective of who would be inheriting it and he would have probably acted the same way if he thought his mother would inherit half of the farm. This is an interesting comment for tax and legal advisers. The farm is a living business – the exact operation and occupation of the farm post death should be considered, and the executors should put an agreement in writing at an early stage. The other grandson did not go that far but agreed he would do what was asked of him. They also continued to work on the farm and act in the same way both before and after they knew of Mary's change of mind in the 2016 codicil. Sheila's counterclaim adds an interesting twist and understanding.

The decision

As mentioned, there were several codicils drafted over the years but ultimately the will reverted to reflect Mary's original intentions. This can be common in farming families and farmers should be advised that such changes and reversals are very prone to claims, and strong contemporaneous evidence to support any amendments should be well documented.

The judge found Mary had full mental capacity and understood her decisions in 2016 and 2017. Her solicitor acted properly and carefully and the file supported this. There was no evidence to show undue influence. Further, it could not be shown that Mary had made a clear promise to the grandsons. Finally, the claimants did not suffer any significant detriment, especially given the financial support that they had received.

The court was critical of the family's conduct, particularly secret recordings and inconsistent evidence. This need for clarity before and after death among the family is a good point for the farming community to take away.

The judge concluded that Mary had always wanted a fair and equal outcome for both sides of the family and dismissed the grandsons' claims, upholding Mary's final will and 2016 and 2017 codicils.

Sheila's counterclaim succeeded. The family had to vacate the farm and were ordered to pay £10,000 a year for farmhouse occupation, £23,000 a year for the rest of the farm and interest at 3% over base rate.

This is a strong dismissal of a farm estoppel claim.

Undue influence – compelling proof

History tells us that undue influence is difficult to prove. The claimants argued that, in the alternative to their proprietary estoppel claim, Mary had been unduly influenced by her own and Sheila's solicitor to revert to her 2006 will, which left the farm to Ruth and Sheila. To prove undue influence, it must be shown that someone has actively coerced the testator into writing their will a certain way – persuasion is not sufficient. The judge found no evidence that the solicitor had coerced or influenced her in any way to signing the 2016 codicil. There were sound reasons for making the change and Mary was deemed to be fully aware of the effect the codicil had. This was evidenced in the solicitor's attendance notes, emphasising the importance to professionals to keep records of such meetings.

The judge criticised the decision to pursue this line of argument on such 'scant evidence', stating that the 'allegation was half-heartedly pursued by counsel'. This underscores the seriousness of such allegations and that they should not be used as a fall-back claim but require sound evidence.

Succession planning pointers

This case highlights some key tips for farming families undergoing succession planning.

- Put succession plans in writing and keep them updated. Carefully record the routes not taken.
- Avoid relying on verbal promises – they can be costly and uncertain to rely upon in court.
- Keep robust partnership agreements updated and know what they say.
- Consider mediation as early as possible and prepare to fully engage in the process – litigation is costly and emotionally draining.
- Be clear about who owns what and the exact legal title – especially when multiple generations live and work on the farm.
- Mesne profits can be brought into the final calculations and must be understood.
- The farm 'litigation habit' emphasises the need for robust farm legal agreements, tax planning and supporting notes.

Clearly, the best way to avoid disputes is for farming families to continually communicate with one another, even on sensitive and personal topics such as these. This may result in some uncomfortable discussions but building open and transparent relationships is something that families who are in business together will need to work on moving forward.

Importance of the partnership agreement

Notably under the partnership agreement entered into in 2015, the grandsons had agreed to give vacant possession of the farm 12 months after Mary's death. Yet they continued to occupy it five years on from that date, along with their parents. The judge found that the terms of the partnership agreement were clear and enforceable, so Sheila's counterclaim succeeded and the claimants were liable for mesne profits as explained above.

Warnings to future estoppel cases

This High Court ruling has brought closure to this long-running inheritance dispute and ultimately upheld Mary's

final wishes, rejecting the claims for estoppel by the grandsons and ordering the family to vacate the property.

For future claimants, *Maile* serves as a reminder that proprietary estoppel cannot be used as a means of alleviating disappointment and remedying presumed entitlement. Ambiguous remarks about family intentions, especially when they conflict with official legal documents such as wills or partnership agreements, are unlikely to succeed. The assessment of whether any detriment has been suffered is fact-dependent, with a broad view of benefits received taken into account, including housing, living costs, drawings and gifts.

The severity of allegations of undue influence has also been highlighted in this case, and the need to evidence coercion rather than mere persuasion is crucial if any claim is to be taken seriously in court. Attempting to make vague or broad claims in an attempt to cover multiple bases can be risky and open to challenge. This is a sensitive matter for farmers as they often know how coercion/undue influence can play out. Years of subtle 'influence' can be wrapped up in help, support and kindness.

As is always the case, prevention is preferable to cure. While succession planning will inevitably necessitate some professional fees that farmers typically try to avoid, it is a worthwhile investment, not only to reduce inheritance tax but also to avoid the substantial costs that would arise from a dispute later down the line. Sometimes the focus on succession planning is on tax but practical considerations are important.

Notably, the grandson's argument regarding staying to work on a farm to help with the inheritance tax position as opposed to, say, having a contract farming arrangement is not unusual. This would have been needed for occupation of the farmhouse for agricultural property relief (IHTA 1984, s 117) and for the trading advantage of business property relief. All tax necessities must be thought through in practical terms and written arrangements. ●

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MTD update



Software considerations.

Part of the preparation for MTD is understanding the available software options.

Under MTD, clients or their agent must keep digital records of income and expenses ahead of submitting quarterly updates to HMRC. Once information is held digitally, it can only be moved using digital links (eg email, pen drive, linking cells, downloading and uploading files) – there can be no copy/cut and paste or manually retyping of figures.

Clients already using bookkeeping software for MTD for VAT should confirm that it is compatible with MTD for income tax. Some clients will require guidance on the best software to buy. HMRC has a tool to help agents and clients find suitable software (tinyurl.com/hmrcmtditswtool).

Small landlords or sole traders may prefer to use spreadsheets. This is where bridging software comes in. It creates a digital 'bridge' between the spreadsheet and HMRC by pulling the figures directly from tagged cells and submitting them to HMRC. The client keeps their familiar spreadsheet; the bridging tool enables submission of data to HMRC, while meeting the requirement for digital links.

Bridging software only handles quarterly updates, so separate software will be required to file the year-end MTD tax return. It is possible to use more than one solution – for example bookkeeping software for a sole trade and a spreadsheet for property income.

A crucial early decision is agreeing who will complete the quarterly updates.

- If the agent prepares and submits the updates, the client will not require software.
- If the client will be preparing and submitting them, the agent could recommend software or bridging tools they trust and can support.
- If the client is preparing and the agent is checking and submitting, both will require a solution with digital links.

Agents must link their software to their agent services account and clients to their tax account (tinyurl.com/attmtdasalink).

Helping clients to choose suitable tools will make everyone's MTD journey smoother and less stressful.

MTD update provided by the Association of Taxation Technicians – see tinyurl.com/attmtdit.