



Agri Assist IN THE KNOW

OUR GUIDE TO THE CASE OF WILD v WILD¹

Background

This case centred upon a dispute between two brothers over whether farmland was a partnership asset.

Ben Wild owned the relevant land, having inherited it from his parents in 1975. A partnership between Ben and his son, Malcolm, commenced in 1978. At the time of the dispute arising, Ben had already died in 2003 and Malcolm had been joined in the partnership by his brother, Gregory.

When the partnership was dissolved in 2016 Gregory claimed that the farmland was a partnership asset. Malcolm and his mother claimed that the land had remained in the ownership of Ben throughout and that it should be dealt as part of his estate.

Not unusually, there was no written partnership agreement. There were, however, partnership accounts including "property" with a value of £40,750.

The Court's decision

The Court ordered that the land, which included the farmhouse, outbuildings and a bungalow were all owned by the brother's mother, having passed to her on the death of Ben.

The Judge's comments

It was noted that:

- The mere fact that there is a partnership and profits produced by a particular asset does not indicate that the asset itself is a partnership asset; and
- A property owned by a partner will only become a partnership asset if this is agreed between the partners.

Whilst the Judge confirmed that if an asset appears in partnership accounts, as may have been the case in this matter, this is strong evidence of it being a partnership asset, it is not conclusive.

If there is no evidence of a clear express agreement then the Court will look at whether such an agreement to introduce property into a partnership can be implied.

Conclusions

There is a very clear message to farmers trading within a partnership:

- Do not assume that an asset is a partnership asset;
- If that is what is intended then ensure that the asset is transferred into joint names;
- Describe the asset clearly in the partnership's accounts; and
- The value of the asset introduced into the partnership can be reflected in the transferring partner's capital account.

If you would like specific guidance for you or your business, talk to Agri Assist today.

¹ Wild v Wild and others [2018] EWHC 2197