

***Cy-pres* in relation to wills**

A recent case highlighted the principle of *cy-pres* in relation to a legacy and the importance of ensuring that there is a clear default beneficiary set out in a Will. *Cy-pres* can be roughly translated to “as near as possible” and is a principle that can be used to prevent a charitable legacy from failing to take effect by passing it to a similar purpose or charity.

In the case the deceased left a gift of her residuary estate of just under £500,000 to a church. There was no trustee of the church when the deceased died. She was the driving force behind the church. When she died it effectively ceased to function.

The court held that the gift of the residuary estate was a valid charitable gift but it could not take effect because the church effectively died with the deceased. As the gift was to the church as it was when the deceased was alive the court could not apply the principle of *cy pres* to apply the legacy to some other charitable purpose.

The residuary estate passed under the Intestacy Rules. This is a statutory set of rules that determine the devolution of an estate in the absence of a Will.

This is a reminder to ensure that there are appropriate default beneficiaries set out in a Will to ensure that a Testator’s wishes are given effect to. In this case one or more other charities could have been set out as default beneficiaries and Intestacy Rules would not have applied.

For more information, please contact:

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