

**IN THE HIGH COURT OF NEW ZEALAND  
WELLINGTON REGISTRY**

**CIV 2017-485-178  
[2017] NZHC 931**

IN THE MATTER                      of the estate of WHETUMARAMA OTE  
HAAHI RATANA URUAMO

Hearing:                      On Papers  
Counsel:                      M J P Davidson for Applicant  
Judgment:                      10 May 2017

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**JUDGMENT OF SIMON FRANCE J**

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[1]     This is an application under s 14 of the Wills Act 2007 for order that the document which is the subject of the application is the last will of Whetumarama Ote Haahi Ratana Uruamo.

[2]     The document is an unsigned will that was drafted on the deceased's instructions some six years before her death. At that time Mrs Uruamo, and her husband Arthur, visited a local law firm asking that wills be drafted. There were no prior wills.

[3]     The wills were drafted and sent to the couple for approval and execution. Mr Uruamo deposes that neither of them realised the wills actually had to be signed, and believed that they were being provided with copies of valid wills. Mr Uruamo says they never read the lawyer's letter properly. Consistent with this, at the time of his wife's death his will also remained unsigned. Mr Uruamo deposes that over the years his wife repeatedly expressed satisfaction she had taken care of him in her will. A similar sentiment was expressed when Mrs Uruamo was in hospital prior to her death.

[4] The only issue here is the length of time that has elapsed since the wills were provided. Care is needed that the lengthy period does not reflect a change in heart rather than the inadvertence or a misunderstanding. In *Re Gray (Dec'd)*, a will that was unsigned for nine years was validated.<sup>1</sup> The circumstances were different, but it provides an example where a lengthy lapse of time has not prevented the validation of the document. In *Re Cornelius (Dec'd)*, the period was three years.<sup>2</sup> That appears to have been a situation where the testator just never got around to signing the will. Again the unsigned will was validated.

[5] The ultimate inquiry is whether the Court is satisfied the document proffered expresses, at the time of the person's death, their existing testamentary intentions. I am satisfied that is the case here. The document is a draft will that expressed the intentions of the Testator at the time it was drafted. There is nothing to suggest those intentions ever changed, nor is there evidence of any relevant change in circumstance that might have prompted Mrs Uruamo to take a different view. The couple have three children who have all consented to the application.

[6] I declare that the undated and unsigned draft will prepared for Mrs Uruamo in December 2010, and appended to the present application, is the valid will of Mrs Whetumarama Ote Haahi Ratana Uruamo.

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Simon France J

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<sup>1</sup> *Re Gray (Dec'd)* [2014] NZHC 1082.

<sup>2</sup> *Re Cornelius (Dec'd)* [2012] NZHC 563.