# SUPREME COURT OF QUEENSLAND

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| CITATION: | *Crandon v Crandon* [2014] QSC 93 |
| PARTIES: | **ANTHONY CRANDON and ANOTHER**<br>(Applicants)<br>**v**<br>**MICHAEL JOHN CRANDON and ANOTHER**<br>(Respondents) |
| FILE NO/S: | SC No 12172 of 2013 |
| DIVISION: | Trial |
| PROCEEDING: | Application |
| ORIGINATING COURT: | Supreme Court of Queensland |
| DELIVERED ON: | 29 April 2014 |
| DELIVERED AT: | Brisbane |
| HEARING DATE: | 29 April 2014 |
| JUDGE: | Atkinson J |
| ORDERS: | **1. The originating application filed on 18 December 2013 is dismissed.**<br>**2. The applicants shall pay the respondents' costs of the proceeding (including the application for summary judgment).** |
| CATCHWORDS: | SUCCESSION – FAMILY PROVISION – REQUIREMENT FOR ADEQUATE AND PROPER MAINTENANCE – WHETHER APPLICANT LEFT WITH INSUFFICIENT PROVISION – CLAIMS BY CHILDREN - where the applicants are two of seven children of the deceased – where the estate was divided beneficially between the deceased's seven children – whether the court should allow the application for adequate and proper maintenance<br>PROCEDURE – SUPREME COURT PROCEDURE – QUEENSLAND – PROCEDURE UNDER THE UNIFORM CIVIL PROCEDURE RULES AND PREDECESSORS – SUMMARY JUDGMENT- where the respondents apply for summary judgment against the applicants – where the applicants did not provide sufficient evidence to suggest they had any right to further and better provision – whether the respondents' application for summary judgment should be |

granted

COUNSEL: P G Mylne for the applicants
R J Leneham for the respondents

SOLICITORS: Turnbull & Company Solicitors for the applicants
Quinn & Scattini for the respondents

HER HONOUR: The applicants, Anthony Crandon and Jacqueline Bakopoulos, are two of seven children of Anthony Wilfred Crandon, deceased. Two other of his children, Michael John Crandon and Janice Irene Larkin, are the executors and trustees of Mr Crandon Senior's estate. The estate was divided beneficially between his seven children. One of those children predeceased Mr Crandon Senior and his share was left to his four children.

It appears that the deceased made a number of loans to various of his children during his lifetime, some of which he did not seek the repayment, rather thinking that those matters would be sorted after he died, and the various rights of the children to moneys would be adjusted to take account of the loans that were made. Unsurprisingly not all of those loans, if any of them, were documented. Unfortunately, this has caused disputation amongst his children. This is a small estate, with the only real asset of the estate being the term deposit in the Bank of Queensland of just over $200,000. With the repayment of loans that are known, this will amount to total assets of just over $300,000.

The applicants, Anthony and Jacqueline – I use their first names to avoid confusion with other Crandons involved in the matter – have made application for adequate provision for the proper maintenance and support of them out of the estate. That application was filed on 18 December 2013. It was not supported by affidavits which would show that they had any entitlement to further and better provision from the estate.

Two applications were filed within their originating application. One, by the respondent executors, was for summary judgment against the applicants. That was filed on 24 March 2014. On 27 March 2014, the applicants filed an application seeking further information about the financial dealings between their deceased father and their siblings during an 11 year period prior to their father's death, and a set of accounts of the assets and liabilities of the estate. They otherwise sought that all applications be dismissed. The information they sought has been provided. I am told that in spite of appearance to the contrary, their application that all applications be dismissed did not include their own originating application. It is unnecessary to decide that application filed on 27 March 2014, since the information they sought in paragraphs 1 and 2 has been provided, and apparently they do not wish to have the orders sought in paragraph 3 made since this would lead to the dismissal of their own originating application.

I turn now to the application for summary judgment that was made on 24 March 2014. That application was set down to the heard on 3 April 2014. On that date, I am informed by the parties, the application for summary judgment was adjourned after argument to enable the applicants to file affidavits, which would give the court jurisdiction to determine their application, there being insufficient evidence before the court to suggest that they had any right to apply for further and better provision from the estate. The matter was then set down for today's date, 29 April 2014.

It is true that there have been three public holidays in April. Nevertheless, the best part of a month has passed between the date when that contested adjournment application was granted and today. In spite of that, the applicants have not filed any further material. I have been provided with draft unsworn affidavits by the applicants, which purport to satisfy the requirements to found the jurisdiction of the court to make further and better provision, and also seek the transfer of this matter to the District Court at Southport. Of course, it is the applicants who filed the application originally in this court last December. Further, the draft affidavits themselves leave questions unanswered, and it is doubtful that even if they were sworn in their present form that they would be sufficient to satisfy the requirements. Of course, they have not been sworn or filed, so that question is hypothetical.

In the circumstances, in my view it is appropriate to grant the respondents' application for summary judgment against the applicants for the whole of the proceeding. Accordingly, it is not necessary to transfer the proceedings to the district Court.

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