

SUPREME COURT OF QUEENSLAND

CITATION: *Re Ronan* [2018] QSC 173

PARTIES: **IN THE ESTATE OF JAMIE IAN RONAN (dec'd)**
TINA LOUISE LYNCH
(first applicant)
KATHERINE ANN RONAN
(second applicant)
BRODIE JAYDE RONAN
(third applicant)

FILE NO: No 1663 of 2018

DIVISION: Trial Division

PROCEEDING: Application on the papers

DELIVERED ON: 3 August 2018

DELIVERED AT: Brisbane

HEARING DATE: Application on the papers

JUDGE: Davis J

ORDER: **1. A Grant of Letters of Administration is made to the applicants jointly.**
2. Each party's costs of and incidental to the application be paid from the Estate on the indemnity basis.

CATCHWORDS: SUCCESSION – PROBATE AND LETTERS OF ADMINISTRATION – GRANTS OF PROBATE AND LETTERS OF ADMINISTRATION – GRANTS OF ADMINISTRATION GENERALLY – JOINT GRANTS – where the deceased died intestate – where the deceased had four children and two are minors – where the two children who have reached majority applied for a joint grant with the mother of the two children who are minors – whether the grant should be made
Succession Act 1981 (Qld) s 5AA
Uniform Civil Procedure Rules 1999 (Qld) r 610
In the Land and Goods of Bligh [1948] QWN 3, cited
Re Sewell (deceased) [1908] QWN 54, cited

SOLICITORS: Kroesen & Co Lawyers for the applicants

[1] Jamie Ian Ronan (the deceased) died intestate on 4 February 2017. The deceased had four issue, two of whom are minors and are the children of the first applicant, a former

partner of the deceased. The second and third applicants are children of the deceased, but the first applicant is not their mother.

- [2] The applicants together apply for a grant of Letters of Administration to them jointly. The first applicant applies so that she might protect the interests of the deceased's two younger children who are still minors. The second and third applicants accept this as being appropriate.
- [3] The applicants have complied with the procedural requirements of the *Uniform Civil Procedure Rules 1999 (Qld) (UCPR)* in making their application for a grant. They have caused to be published and provided to the Public Trustee a notice of intention to apply for the grant.¹ Each of their affidavits supporting the application comply with the requirements in r 609.
- [4] Arising on the present application are two main considerations: who has priority for a grant, and whether a joint grant should be made.

Priority

- [5] Rule 610 of the *UCPR* provides an order of priority for the grant of letters of administration in the case of a person dying intestate. Rule 610 provides, relevantly:

“610 Priority for letters of administration

- (1) The descending order of priority of persons to whom the court may grant letters of administration on intestacy is as follows—
- (a) the deceased's surviving spouse;
 - (b) the deceased's children;
 - (c) the deceased's grandchildren or great-grandchildren;
 - (d) the deceased's parent or parents;
 - (e) the deceased's brothers and sisters;
 - (f) the children of deceased brothers and sisters of the deceased;
 - (g) the deceased's grandparent or grandparents;
 - (h) the deceased's uncles and aunts;

¹ As required by rr 598 and 599 of the *UCPR*.

- (i) the deceased's first cousins;
 - (j) anyone else the court may appoint.
- (2) A person who represents a person mentioned in a paragraph of subrule (1) has the same priority as the person represented."

[6] A surviving spouse has priority over all other applicants by effect of rule 610(1)(a). "Spouse" is defined by s 5AA of the *Succession Act* 1981 (Qld). That section provides, relevantly:

"5AA Who is a person's spouse

- (1) Generally, a person's *spouse* is the person's—
 - (a) husband or wife; or
 - (b) de facto partner, as defined in the *Acts Interpretation Act 1954* (the *AIA*), section 32DA; or
 - (c) civil partner, as defined in the *AIA*, schedule 1.
- (2) However, a person is a spouse of a deceased person only if, on the deceased's death—
 - (a) the person was the deceased's husband or wife; [etc]
..."

[7] Affidavits of each of the applicants in support of the present application depose to the deceased not being married or in a registered relationship² at the date of his death.³ The deceased was not survived by a spouse.

[8] The second and third applicants have priority then by effect of r 610(1)(b).

[9] Rule 610(2) provides that a person representing a person with priority has the priority of the person they represent. The rule contemplates a person acting in a capacity such as that of a litigation guardian or under a power of attorney. Rule 639 provides:

"639 Grants to young persons

- (1) This rule applies if a young person—

² Under the *Civil Partnership Act* 2011 (Qld) or similar legislation.

³ Affidavit supporting application for letters of administration on intestacy of Tina Louise Lynch, filed 15 February 2018, CFI 2 at [5]; Affidavit supporting application for letters of administration on intestacy of Brodie Jayde Ronan, filed 15 February 2018, CFI 3 at [4] ("Brodie Ronan affidavit"); Affidavit supporting application for letters of administration on intestacy of Katherine Ann Ronan, filed 15 February 2018, CFI 4 at [5] ("Katherine Ronan affidavit").

- (a) is the sole executor of a will; or
 - (b) would be entitled to a grant of administration on intestacy.
- (2) The court may grant administration with the will or administration on intestacy to a young person's guardian or someone else the court considers appropriate until the young person becomes an adult.
- (3) When the young person is an adult, the court may, on the person's application, grant administration with the will or administration on intestacy to the person."

[10] The first applicant is not applying for a grant on behalf of her children in any formal capacity although she seeks to protect their interests. The second and third applicants both depose to their belief that the first applicant is equally entitled to apply for a grant.⁴ There is no suggestion that the priority of the second and third applicants should defeat the application of the first applicant.

[11] The Court has jurisdiction to make a grant to any suitable person.⁵ Given that the second and third applicants do not assert priority over the first applicant, I will treat all three of them as ranking equally.

Joint grant

[12] In Queensland, it has long been the case that joint grants of letters of administration require the demonstration of special circumstances.⁶ An interest in the estate by minors is one such special circumstance that would lead the Court to granting joint administration.⁷

[13] The applicants are all agreed that a joint grant is appropriate. As much is clear from the applicants' affidavits in support of the application and correspondence between the first and third applicants' solicitors exhibited to an affidavit of the first applicant.⁸

[14] Accordingly, it is appropriate to make a joint grant.

⁴ Brodie Ronan affidavit at [9]; Katherine Ronan affidavit at [10].

⁵ Rule 610(1)(j).

⁶ See *Re Sewell (deceased)* [1908] QWN 54; *In the Land and Goods of Bligh* [1948] QWN 3.

⁷ *Bligh* [1948] QWN 3.

⁸ Affidavit of Tina Louise Lynch, filed 3 July 2018, CFI 8 ex A, B.

[15] THE ORDER OF THE COURT IS AS FOLLOWS:

1. A Grant of Letters of Administration is made to the applicants jointly.
2. Each party's costs of and incidental to the application be paid from the Estate on the indemnity basis.