

## **Tchilingirian v Ouzounian and others.**

**Cite:** BLD\_0703030900; [2003] All ER (D) 76 (Mar).

**Court:** Chancery Division.

**Judge:** Hazel Williamson QC sitting as a deputy judge of the High Court.

**Hearing Date:** 6 March 2003.

*Wills—Validity—Testamentary capacity—Claimant seeking revocation of grant of probate on ground of testamentary incapacity—Evidence.*

The claimant was the grandchild of the testatrix, who died on 19 March 1997. His mother (the first defendant) was granted probate of the testatrix' will dated 11 January 1995. The claimant and the third defendant, who took no part in the proceedings, were the children of the first defendant's first marriage. The second defendant was the first defendant's daughter by her second marriage. The claimant applied to the court for revocation of the grant of probate on the grounds of, alternatively, want of capacity of the testatrix, want of knowledge and approval of the contents of the will and undue influence upon the testatrix exercised by the first defendant. The claimant also requested that the court pronounce against the earlier wills of the testatrix of 7 October 1994 and 15 July 1994 and pronounce in solemn form in favour of the earlier will of 25 February 1993. Under that will, the claimant and the first defendant were appointed executors and a third-share of the estate left to the claimant, the third defendant and the second defendant on her attaining the age of 21 years. It was common ground that the 1993 will was valid and would be the testatrix's last will and testament if the later wills were held to be invalid. The later wills of July and October 1994 and January 1995 named the first defendant as executor and left the whole of the estate to the second defendant, providing she attained the age of 18 years, and to the first defendant absolutely if she failed to do so.

The application would be allowed.

On the evidence, the testatrix did not possess adequate testamentary capacity to execute any of the last three wills. Accordingly, the grant of probate in respect of the will of January 1995 would be revoked. The court would pronounce against the validity of that will and the purported wills of July and October 1994, and would pronounce in favour of the will of 25 February 1993.

**Case annotations in other services:** Tchilingirian v Ouzounian and others [2003] All ER (D) 76 (Mar).