

**Coomey (Legal Personal Representative of the Late John Richard Cox, Deceased) v Cox [2023] IEHC 100 – Stack J - March 03, 2023**

Applicant seeking to overturn Deed of Transfer from the Deceased to wife due to undue influence - needs to be a special degree of trust and confidence shown before any claim for undue influence could succeed, in determining same court asked two questions (1) did the Deceased have special degree of trust and confidence in his wife and (2) whether the nature and circumstances of the gift are such to justify presumption of undue influence – need to show something beyond the mutual trust and confidence of a happy marital relationship - must be a “special” degree of trust and confidence - weight given to the age gap between the parties, active role his wife had managing his affairs, ill health - was transfer to the manifest disadvantage of the donor as he had clearly intended to provide for his children under his will but this proved to be a futile exercise after the consequences of the Deed of Transfer took effect - Overall serious disadvantage suffered by the Deceased together with the relationship of trust and confidence reposed by him in wife sufficient to give rise to presumed undue influence - no sinister intention – can presumption be rebutted - no recollection of events by wife - lack of contemporaneous attendance produced by legal advisers - presumption not rebutted - Legal advice not independent as acting in the interests of the Deceased and his wife.