



Quiz

Equitable Estoppel and Estates

1. Upon which cause of action was the plaintiff ultimately successful?
 - a. A family provision claim under the *Succession Act 2006* (NSW);
 - b. Breach of contract;
 - c. Constructive Trust;
 - d. Breach of Trust;
2. What was the key element the plaintiff needed to establish for her claim to be successful?
 - a. Proof that representations were made;
 - b. Proof that she relied upon representations made to her;
 - c. Proof of detriment;
 - d. All of the above
3. How did the common law rule of *Browne v Dunn* rule apply in the case?
 - a. The plaintiff's testimony about the representations made to her and her reliance on them were not seriously challenged under cross-examination and the Judge was able to rely on her testimony;
 - b. Contradictory evidence which was presented by the defendant after the plaintiff's testimony was discredited as it was not put to the plaintiff as part of her cross-examination;
 - c. Evidence put to the court regarding the defendant's actions prior to the deceased's death led the court to be able to declare her to be a discreditable witness;

- d. All of the above.
4. What did the court find in relation to the defendant's conduct?
- a. That the deceased's actions at the time the deceased made the will in her favour constituted duress;
 - b. That the defendant's actions caused alienation of the deceased from his family;
 - c. That the defendant caused the deceased to recind his previous will and make a new will in her favour at a time when he did not have the capacity to do so;
 - d. Both a and b.
5. What did the court order in regard to costs?
- a. As in the course of ordinary probate litigation, the executor was able to get an indemnity from costs and the costs are paid by the estate;
 - b. The defendant, as executor acted improperly in her role as executor and therefore the costs of the litigation and any appeal needs to be paid by her personally;
 - c. The matter was run as an equity claim, which is not probate litigation and therefore each party was ordered to pay their own costs for the litigation and any further appeals.
 - d. Nothing, the costs judgement was set down to be heard separately.

Answers:

1. C 2. D 3. A 4. B 5. D