



# Stepchildren involved in unusual inheritance dispute

Two stepsisters are currently involved in an unusual [inheritance dispute](#) over a family property.

John and Ann Scarle both had children from previous marriages. Sadly, Mr and Mrs Scarle were found dead in their home in October 2016 after police were called by worried neighbours.

Mr and Mrs Scarle are believed to have died from hypothermia, but their precise dates of their deaths are unknown. It has also not been possible to establish whether Mr or Mrs Scarle died first.

The dispute relates to who will receive their property, which it has been reported is worth around £280,000.

## What is the issue?

Section 184 of the Law of Property Act 1925 provides that if two or more people die in circumstances where it is not possible to determine who died first, the younger is deemed to survive the elder. This law is also known as the Commorientes Rule.

Mrs Scarle's daughter, Debra Cutler, claims that the order of deaths cannot be determined, so the legal presumption is that her stepfather, Mr Scarle, died first. That would mean that she and her brother would inherit the property.

Conversely, Mr Scarle's daughter, Anna Winter, has argued that her stepmother died first, which means that her father inherited Mrs Scarle's share of the property and this would now pass to Ms Winter.

## How often is the Commorientes Rule used?

Cases involving the Commorientes Rule are relatively uncommon. It is usually used in tragic cases involving family accidents or exceptional circumstances, where the dates or times of death of those involved cannot be determined.

For example in *Hickman v Peacey [1945]*, four people died in a London bomb shelter during a Second World War air raid. Some were beneficiaries under the wills of some of the others who died.

The House of Lords held that, due to the lack of evidence about whether any of those who died survived others in the incident, the youngest person was deemed to have survived the others and therefore the property went to their estate.

## How does the *Scarle* case affect wills?

In the *Scarle* case, the judgement has been reserved until a later date.

However, it is important to remember that wills are not watertight and there is always a risk that a will or estate can be challenged. In addition, in certain circumstances, legislation may also have to decide who will inherit a property.

If you are concerned about an inheritance dispute, it is important to consider obtaining specialist legal advice as soon as possible, as time limits can apply. Contact our [Disputed Wills](#) Team at [online.enquiries@LA-law.com](mailto:online.enquiries@LA-law.com).