



## Are You As Good As Your Word

While agreements should be recorded in writing, it is not altogether surprising that in a family context, family members tend to rely on the word of another without more. On the facts of a recent Western Australian case, the court ordered a father to make good on a promise made to his son.

From a very early age the son worked on various family farming properties and gave up opportunities to pursue other trades or careers on the faith of a series of promises made to him by his parents. Essentially the son was promised that his name would be on the title deeds as a one third owner of the family's farming land in return for his commitment to work on these properties. When his parents failed to live up to their promises, the son took his father to court following the death of his mother.

In putting forward his case, the son sought to quantify the time he worked on the family properties and family businesses between 1960 and 1996 during which he received little or no remuneration. During this time, the son and his family were under substantial financial strain which they were prepared to endure because of the promises made.

The father, in contrast, argued that his son received a lot more remuneration than he was prepared to acknowledge.

The court acknowledged it was obvious that [the promises] would be an incentive to the son to persevere in the hard work in which he was engaged, to endure immediate financial disadvantage in the knowledge that in the not too distant future his efforts would be rewarded by him becoming a co-owner of the family land.

The court ordered that a one third interest in the family properties be held on trust for the son and if necessary, the court would order the father to transfer a one third interest to the son or pay equivalent compensation.

Do not leave such arrangements to chance. At Everingham Solomons we have the expertise to assist family farming businesses in planning, documenting and implementing a succession plan because *Helping You is Our Business*.



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