

(9)

IN THE HIGH COURT OF AUSTRALIA

NEW SOUTH WALES REGISTRY.

Ct Bk Number 9 of 1945

IN THE MATTER OF THE ESTATE DU TY ACT
1914-1940

AND IN THE MATTER of the ESTATE DU TY
ASSESSMENT ACT 1914-1940

AND IN THE MATTER of the Estate of
GWENDOLINE LILLIAM MARTIN late of
Warrawee near Sydney in the State
of New South Wales Married
Woman deceased

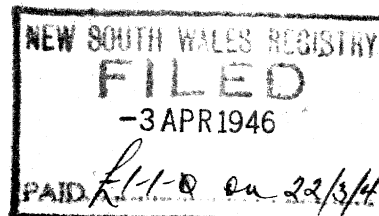
BETWEEN

HAROLD FREDERICK KENT and LAWRENCE
WILLIAM HENDERSON MARTIN as
Administrators of the Estate
of Gwendoline Lillian Martin
deceased

and

THE COMMISSIONER OF TAXATION
for the Commonwealth of
Australia

ORDER



WHITEHEAD FERRANTI & GREEN,
Solicitors,
92 Pitt Street,
SYDNEY.

IN THE HIGH COURT OF AUSTRALIA)
NEW SOUTH WALES REGISTRY)

Ct Bk Number 9 of 1945

IN THE MATTER of the Estate Duty Act 1914-1940

AND IN THE MATTER of the ESTATE DUTY ASSESSMENT
ACT 1914-1940

AND IN THE MATTER of the Estate of GWENDOLINE
LILLIAN MARTIN late of Warrawee in
the State of New South Wales
Married Woman deceased

BETWEEN

HAROLD FREDERICK KENT and LAWRENCE WILLIAM
HENDERSON MARTIN as Administrators
of the Estate of Gwendoline Lillian
Martin

Appellants

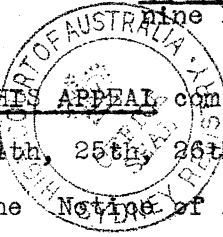
and

THE COMMISSIONER OF TAXATION for the Commonwealth
of Australia


Respondent


BEFORE His Honour Mr. Justice Williams

MONDAY the Twenty second day of October one thousand
nine hundred and forty five.

 ~~THIS APPEAL~~ coming on to be heard on the 18th, 19th, 20th, 21st,
24th, 25th, 26th and 27th days of September 1945 in pursuance of
the ~~Notice~~ of Appeal filed herein on the 23rd day of March 1945

WHEREUPON AND UPON READING the said Notice of Appeal, the exhibits
tendered in evidence by the abovenamed Appellants and by the above-
named Respondent respectively AND UPON HEARING the oral evidence
given by William Erskine Bain, David Walter Blackmore, Harold
William Chancellor, William Ingham Joseph Whitely, Edgar Sidney
Wolfenden, Aubrey Arnold Grant Harris, William Henry Medlicott
Andrews, Lawrence William Henderson Martin, Wilfred Leonard Pogson
Hind, George Martin Simpson, Harold Frederick Kent and Raymond Zani
de Ferranti called on behalf of the Appellants and by Robert William
Nelson and Robert Davis Bogan called on behalf of the Respondent AND
UPON HEARING what was alleged by Mr. C.A. Weston and Mr. F.W. Kitto
both of King's Counsel with whom was Mr. A.B. Kerrigan of Counsel
for the Appellants and by Mr. H.H. Mason of King's Counsel with whom
was Mr. E.J. Hooke of Counsel for the Respondent IT WAS ORDERED on




the said lastmentioned day that the said Appeal stand for judgment and the same standing in the list for judgment this day IT IS ORDERED that the said Appeal be and the same is hereby allowed AND IT IS FURTHER ORDERED that the existing assessment for Estate Duty made upon the Appellants under the Estate Duty Assessment Act 1914-1940 and notified to the Appellants by Notice of Assessment dated 19th May 1942 as amended by Notice of Amended Assessment dated 5th June 1942 be and the same is hereby set aside and IT IS FURTHER ORDERED that the matter be remitted to the Respondent to re-assess the amount of Estate Duty payable by the Appellants in respect of the Estate of the said deceased on the basis as follows:-

1. That the sum of Eight thousand three hundred and sixteen pounds (£8316) being moneys expended in and about the erection of a house on the property "Ashleigh" Four Mile Creek Via Orange was a debt due and owing by Gwendoline Lillian Martin to her husband at the date of her death within the meaning of Section 17 of the Estate Duty Assessment Act 1914-1940.
2. That the one hundred and sixty three thousand one hundred and forty one (163,141) ordinary shares of One pound each in Paper Products Pty Limited held by the Appellant Harold Frederick Kent as trustee of a certain Indenture of Settlement executed by Gwendoline Lillian Martin on the 16th day of December 1926 be valued for estate duty purposes at the sum of Two pounds five shillings (£2:5:0) per share.

AND IT IS ALSO ORDERED that it be referred to the proper Officer of this Court to tax and certify the Appellants' costs of and incidental to this Appeal and that two-thirds of such costs when so taxed and certified be paid by the Respondent to the Appellants or to their Solicitors Messieurs Whitehead Ferranti & Green after service of a copy of the Certificate of Taxation.

BY THE COURT


DISTRICT REGISTRAR