

Summary

Karani v Karani N.O and Others (02266/2014) [2017] (ZAGPJHC) (20 October 2017)

The Plaintiff (previously Applicant) is seeking an order declaring the Last Will of the deceased dated 7 February 2013 invalid and deceased's Will dated 15 September 2006 to be valid. The matter was referred to trial by Spilg J. The Plaintiff disputed the validity of the Will dated 7 February 2013 on the grounds that it does not comply with the requirements of section 2 of the Wills Act 7 of 1953 and the signature of the Testatrix was forged. The 1st and 2nd Defendants disputed the allegation of forgery.

The requirements of the Wills Act failure to comply therewith. Section 2(1) and (2) of the Wills Act requires the Testatrix to sign in the presence of two (2) or more witnesses who are also present at the same time. Section 2(3) of the Act provides some amelioration from the rigorous implementation of the law, however for reliance on this section, two (2) requirements must be satisfied: (a) the document must have been drafted by the deceased personally; and (b) that the deceased intended the document to be her will.

It has been accepted by our courts that witnesses to a Will need only sign the last page of a Will. The Act should be interpreted widely to mean that each and every page of a Will must be signed by all.

The function of the experts- to assist the court and to give reason for their opinion.

The the Contested Will declared invalid for lack of compliance with the Wills Act and for forged signature. The 1st, 2nd and 3rd Defendants ordered to pay the costs of the application and costs of suit.