Neutral Citation Number: [2023] EWHC 679 (Ch)

Case No: PT-2020-000334

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
PROPERTY TRUSTS AND PROBATE LIST (ChD)

Royal Courts of Justice, Rolls Building
Fetter Lane, London, EC4A 1NL
Date: 3/4/2023

Before:

MASTER CLARK

- -

Between:

CARLTON ALDO WATTS	**Claimant**
- and -	
JOBYNA WATTS	**Defendant**

- -
- -

Justin Holmes (instructed by **NWL Solicitors**) for the **Claimant**
Matthew Tonnard (instructed by **B P Collins LLP**) for the **Defendant**

Hearing dates:, 19 October 2022, 17 February 2023

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Approved Judgment

Remote hand-down: This judgment was handed down remotely at 10am on 3 April 2023 by circulation to the parties or their representatives by email and by release to The National Archives.

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Master Clark:

1. This is my judgment on the preliminary issue ordered to be tried by my order dated 27 May 2022:

> "Whether the will dated 8 February 2000 ("the 2000 will") is a forgery."

Parties and the issue

2. The claimant, Carlton Aldo Watts, is the son of the deceased, Eustace Fitzgerald Watts, who died on 29 April 2008, aged 92. The defendant, Jobyna Watts, is the claimant's mother and the deceased's widow. At the date of the trial, she was aged 92. For the sake of clarity, and without intending any disrespect, I refer to the claimant as "Carlton" and the defendant as "Mrs Watts".

3. The 2000 will is, in the events that have happened, straightforward in its application: the deceased's entire estate is left to Mrs Watts, who is appointed sole executrix. On its face it is signed by the deceased, and witnessed by B Goodsir, legal secretary and Sarah Evans, solicitor, both of Lane Heardman, solicitors.

4. The particulars of claim allege that the signature of the deceased on the 2000 will is a forgery, and that the deceased did not execute it. By re-amendment, the claimant provided particulars of this allegation based on the evidence of his expert, Mr Douglas A. Cobb. These are set out as particulars of paragraph 3 of the Amended Particulars of Claim, and are considered at paragraphs 50 to 68 below.

5. At trial, Carlton also sought to base his case on circumstantial evidence as to:
   (1) the existence of an earlier will made in 1994 ("the 1994 will") under which, Carlton alleges, he was a one-third beneficiary, together with Mrs Watts and Fraser;
   (2) the quality of his relationship with his father: said to be good, or at least such as not to cause his father to wholly exclude him from his will;
   (3) Mrs Watts' behaviour towards the deceased.

6. This circumstantial evidence is, in my judgment, of marginal relevance. The key factual issue is whether the 2000 will was made by the deceased, and in particular, whether the signature on it was made by him.

Legal principles

Due execution

7. Section 9 of the Wills Act 1837, in the version in force in 2000, provides that:

   "No will shall be valid unless-
   (a) It is in writing, and signed by the testator, or by some other person in his presence and by his direction; and
   (b) It appears that the testator intended by his signature to give effect to the will; and
   (c) The signature is made or acknowledged by the testator in the presence of two or more witnesses present at the same time; and
   (d) Each witness either-

(i) attests and signs the will; or
(ii) acknowledges his signature,

in the presence of the testator (but not necessarily in the presence of any other witness), but no form of attestation shall be necessary."

8. Whilst an attestation clause is not strictly required, where a will includes such a clause and, on the face of it, has been validly executed, the strongest evidence is required to show that it was not validly executed (see *Sherrington v Sherrington* [2005] EWCA Civ 326, [2005] W.T.L.R. 587 at [40-41] and *Royal National Institute for Deaf People and others v Turner* [2015] EWHC 3301). Although the parties referred me to 2 decisions in which it has been held that, where forgery is alleged, the burden of proof is on the person propounding the will, insofar as these are inconsistent with *Sherrington*, these are not binding on me. In any event, Carlton accepts that because the 2000 will is regular on its face and apparently duly executed, the effective burden of proof is on him.

Witnesses of fact

9. Carlton was the only witness of fact in support of his claim. His evidence was only as to circumstantial matters. He was unable to explain the inconsistencies in his statements of case as to the terms of the trust alleged by him – see paragraphs 19 to 23 below. He believes that his mother has committed a criminal offence and should be prosecuted, even though, as explained below, the police have investigated his complaints and decided to take no action. He alleged in his particulars of claim (and continued to allege in his oral evidence) that Mrs Watts only found out about the 1994 will in 1998 or 1999, when it is clear from the records of the solicitors who prepared the 1994 will that Mrs Watts made her own will with them on the same date. My evaluation of Carlton's evidence is that he holds a fixed belief that his mother has dishonestly and unfairly deprived him of his entitlement to his father's estate, and that this has coloured and distorted his view of the factual matters relevant to this case. For this reason, I do not consider him a credible witness, and only accept his evidence when supported by independent contemporaneous documentation.

10. 3 witnesses of fact were called on behalf of Mrs Watts
    (1) Sarah Evans, the solicitor whose name appears as a witness of the 2000 will – her evidence is discussed in paragraphs 26 to 30 below;
    (2) Mrs Watts herself;
    (3) her son, Fraser Watts ("Fraser").

Mrs Watts

11. Mrs Watts has no direct knowledge of the making of the 2000 will. Her memory of past events was poor: she could not recall the contents of the deceased's earlier wills,

even though she made wills at the same time with the same solicitors, and is likely therefore to have known their contents at the time. Her Defence and Amended Defence reflect that position.

12. She was cross-examined on the inconsistency between her statement in the Amended Defence that before his death the deceased "maintained control of all joint assets, including sums held in bank accounts, and the Defendant was dependant on the Deceased's decision making"; and the deceased's medical records as to his condition in October and December 2007 which record physical and mental incapacity which would have prevented him from doing so.

13. Neither her failure to remember the deceased's earlier wills, nor to recall the severity of his condition at the end of his life are in my judgment significant. They reflect the failing memory of a person of Mrs Watts' reasonably advanced age. In any event, even if I accepted that Mrs Watts' evidence prevented her from being a credible witness, that falls far short of justifying the inference that she forged or procured the forging of the 2000 will.

Fraser Watts

14. Fraser Watts gave his evidence in a straightforward manner, and there is no reason to consider him other than a truthful witness.

Factual background

15. The deceased was born on 10 July 2016. In the 1940s he married his first wife and there were 4 children of that marriage.

16. The deceased met Mrs Watts in the 1950s, when she was working as a dancer at the Windmill Theatre in London's West End. He and Mrs Watts married in 1955, so by the date of the 2000 will had been married for 45 years. They had 2 sons, Carlton and Fraser.

1988 will

17. On 27 May 1988 the deceased and Mrs Watts each made wills. No copy of those wills was in evidence, and as noted, Mrs Watts has no recollection of their contents.

18. On 30 March 1990, the deceased transferred 6 properties in Hounslow into the joint names of himself and Mrs Watts, 2 more properties already being jointly owned.

Alleged trust

19. Carlton seeks to rely upon a declaration of a trust of which he was a beneficiary, which he says the deceased made in 1990. However, his case as to the effect of that trust is inconsistent.

20. §12 of the Amended Particulars of Claim dated June 2022 states that in 1990:

> "… the Deceased executed a trust in relation to his rental properties. [Carlton] and [Fraser] were witnesses to the execution of the trust document which caused all the properties to be held on trust beneficially for [Carlton], [Mrs Watts] and [Fraser] in equal one-third shares each"

21. By contrast, §21 of the Reply to Amended Defence dated July 2022 states:

> "In 1990 [Mrs Watts] was gifted 50% of the properties into a trust. On the Deceased's death, [Carlton] was due to take the Deceased's place on the Trust."

22. These two descriptions, produced 1 month part, are entirely conflicting. Fraser's evidence was that it was "nonsense, absolute rubbish" that the deceased had declared a trust over his rental properties. In addition, even though Carlton first raised a challenge to the 2000 will in 2009, 11 years before this claim was brought, there is no reference to an alleged trust in his solicitor's correspondence, or any other documents recording or evidencing Carlton's complaints about his mother. There is no documentary evidence recording or evidencing the alleged trust.

23. I am not therefore satisfied on the evidence before me that a trust of which Carlton was a beneficiary was created by the deceased. However, even if it were, it would be of marginal relevance. Indeed, it could be said that if the deceased had provided for Carlton by way of a trust, then that would reduce or obviate the need to include Carlton in his testamentary dispositions.

1994 will

24. On 27 April 1994, the deceased and Mrs Watts made new wills and the 1988 wills were destroyed. As noted, Mrs Watts has no recollection of the contents of the 1994 will, and there was no copy in evidence. However, there is indirect evidence as to its contents – see para 36 below.

25. During 1999, the deceased and Mrs Watts sought advice from Woolwich Independent Financial Advisory Services about assets held in their joint names.

2000 will

26. Sarah Evans was, as noted above, the solicitor who took the deceased's instructions for the 2000 will, and arranged and witnessed its execution. She had a clear recollection of

the deceased whom she described as "quite a character" and well known in Hounslow. The deceased was a long-standing client of Lane Heardman, and was already a client when Ms Evans began her articles in the late 1970s. By 2000 she was a senior partner at Lane Heardman. She had not acted for the deceased before. His previous contacts at the firm had been former senior partners at the firm: Mr Lane-Heardman, Mr Logan Hill, Ms Evan's late husband (who retired in 1998). By 2000, all these partners were either dead or had retired. Her acting for the deceased was, as she put it, "Buggins' turn".

27. Ms Evans recalled the deceased's instructions as being clear and consistent: he wanted Mrs Watts, as his surviving spouse, to be the sole beneficiary of his estate; and he did not want Carlton to inherit anything if Mrs Watts survived him. As to the physical production of the will, she said it was produced on "*an actual typewriter, a sort of hybrid, it had a screen*".

28. As to the execution of the 2000 will, Ms Evans' evidence was
    (1) as a matter of practice, she required testators to date wills in their own hand;
    (2) she identified and recognised her signature and that of Ms Goodsir (who is no longer alive);
    (3) she recalls the deceased attending her office and signing the 2000 Will; and
    (4) from 2000 onwards, an electronic register was kept for newly created wills.

29. Carlton's case is that Ms Evans has misremembered there being a will making meeting with the deceased on 8 February 2000. His counsel invited me to reject Ms Evans' evidence as not credible. She was, he submitted, an overconfident witness, and it was highly unlikely that she could remember the execution of the will after 22 years. He also relied upon the fact that Ms Evans remembered the deceased as being "short with a pot belly", when the other witnesses agreed that he was about 6' tall. He submitted that she possibly muddled up the execution of Fraser's will (on 27 January 2000) with that of the deceased.

30. I reject that submission. I accept Ms Evans' evidence that she remembers the deceased because he was long-standing client of the firm, whom she had seen on many occasions in the firm's waiting room (and whose affairs she was aware of from discussions with her colleagues), and a memorable character. Although the will file is not in evidence, it is clear from Ms Evan's evidence that she saw the deceased on 2 separate occasions: first, to take his instructions as to his will, and later, having prepared the draft will, witnessing its execution. It is conceivable that a solicitor might have no recollection of these occasions, but, in my judgment, inconceivable that she would misremember them with the level of detail that Ms Evans has recalled. Although Ms Evans may have

misremembered the deceased's height, this is not in judgment a crucial detail; and I note, in any event, that Fraser is also about 6' tall. I therefore accept Ms Evans' evidence.

31. On 9 February 2000, 1 day following the execution of the 2000 will, a bank account was created in the joint names of the deceased and Mrs Watts. £200,000 was transferred into this account.

32. Mrs Watts' evidence, which I accept, is that she was not involved in the making of the 2000 will, but the deceased showed her a copy a few days later, and said it would be in a drawer in his private office as and when she needed it.

33. In 2009 (following the death of the deceased on 29 April 2008), Mrs Watts gave Carlton a photocopy of the 2000 will ("the 2009 photocopy"). Carlton's case is that the 2009 photocopy is a copy of a forged will.

34. In about June 2009 Carlton attended the offices of Bonnett Son & Turner LLP ("Bonnetts") into which Lane Heardman had been incorporated in 2002. He was shown "the original will" and was satisfied that it was identical to the copy he had been shown. He raised issues about the deceased's capacity, and whether the signature was genuine.

35. On 9 June 2009, solicitors acting for Carlton wrote to Bonnetts to say that he was not satisfied that the 2000 will was genuine.

36. In about August 2009, Carlton made a complaint to the police that his mother had committed offences of fraud and money laundering. Mrs Watts was formally interviewed under caution by the police. On 5 May 2011, Carlton's solicitor wrote to him recording her conversation with DS Purvis, the interviewing officer. This included:

> "A question was raised as to why the Will was changed from 1994 which split the estate three ways to the 2000 Will. The answer given by your mother was that the Will was changed as your father had become fed up with you as he had set you up in business on three separate occasions, last occasion being the setting up of a Driving School, but all the businesses failed."

37. Although this email is double hearsay, both DS Purvis and Carlton's solicitor are (because of their roles) to be expected to have paid close attention to what was said to them, and recorded it accurately. I find that the 1994 will gave one third of the deceased's residuary estate to Carlton. But again, I consider this to be of marginal relevance to the issue to be decided.

38. On 7 May 2011, Mrs Watts obtained a non-molestation order against Carlton. Carlton disputes most of the allegations made by Mrs Watts in her evidence in support of the application for the order. He accepts however, that he put on to his car a large notice saying "Jobyna Watts forged her husband's will and stole his money". On 22 September 2014 the non-molestation order was discharged on Carlton's application, unopposed by Mrs Watts.

39. The claim was commenced on 28 April 2020. Mrs Watts acknowledged service on 24 June 2020. Under CPR 57.5 she should have lodged the original of the 2000 Will and filed a statement of testamentary scripts when she acknowledged service. She did not do so. In response to the court's directions to do so, her solicitors filed a PDF copy of the 2000 will ("the PDF") on 3 November 2020. Mrs Watts' statement of testamentary documents dated 21 November 2020 stated that the original will was held by her solicitors. On 23 November 2020, Mrs Watts sent the original will ("the original will") to the court. This was made available to me at the trial.

40. Carlton's case at trial (though not pleaded) is that Mrs Watts or someone on her instructions may have created a further forgery of the 2000 will during the period between the filing of the PDF and the lodging of the original will.

Expert evidence

41. Having accepted Ms Evans' evidence, it is unnecessary in my judgment to consider the expert evidence. However, in case I am wrong about that, I turn to it.

42. Both parties rely on the reports of experts within the field of document examination. Carlton's expert, Mr Cobb, produced 3 reports:
    (1) "Analysis of the Horizontal Alignment of the Text within the Documents", 15 January 2022 ("the Cobb Horizontal Alignment Report");
    (2) "Document Examination of: The Last Will and Testament of Eustace Fitzgerald Watts", 20 January 2022 ("the Cobb Report");
    (3) "Rebuttal Report of the Document Examination of Michael Handy", 28 September 2022 ("the Rebuttal Report").

43. Mrs Watt's expert was Mr Michael Handy, who produced a report entitled "Forensic Examination Documents and Comparison of Signatures", 5 August 2022 ("the Handy Report").

44. The following documents were made available to the experts:
    (1) the original will – this is a single A3 sheet folded in half so that each typed page is A4 size;

(2) the PDF;
(3) the 2009 photocopy;
(4) a photocopy of the signature page of Fraser's will dated 27 January 2000 ("Fraser's will")

Claimant's expert

45. Mr Cobb sets out his expertise as follows:

> "I am a Paper Scientist and Forensic Document Examiner, I have been involved in the research, development, production and testing of various grades of paper for over 29 years. … I consult and assist Handwriting Experts and Forensic Document Examiners with examinations related to paper and paper properties. I have presented at several national and international conferences, educating handwriting experts and forensic document examiners in the aspects of paper and print properties, and how they present clues to forensic analysis.
> … In my forensic paper analysis methodology …"

46. There is nothing in this description or in Mr Cobb's CV that refers to or demonstrates expertise in handwriting analysis. Although in cross-examination, he said that his qualifications under the guidelines of the Scientific Working Group for Document Examiners (SWGDOC) included traditional handwriting analysis, there is nothing in his CV to show that he has ever carried out such an analysis.

47. More importantly, Mr Cobb refers to only one sample of Mrs Watts' signature, albeit he does not state the source. He then only considers similarities in the alignment of the lettering of this signature and the deceased's signature. No consideration is given, or analysis undertaken, of samples of the deceased's handwriting and signatures.

48. By contrast, the Handy Report:
(1) makes reference to 18 samples of the deceased and Defendant's handwriting and signatures over a 65-year period;
(2) identifies natural variations;
(3) undertakes a forensic assessment of the deceased's and Mrs Watts' handwriting and signatures; and
(4) concludes there were "no significant differences between the questioned and examined reference signatures of the deceased".

49. In cross-examination, Mr Cobb presented as confused, and was unable to explain the basis for his opinions. His evidence is discussed further below, but the unsatisfactory features of his evidence can be summarised as follows:
(1) The Cobb Report states (at page 5, Figure 6) that when the 2009 photocopy was superimposed on a scan of the original will, the solicitors' signatures did not align

– in cross examination, he accepted this was incorrect and that the signatures do align. He attributed this to a typographical error. It was plainly an error, but not in my view a typographical one.

(2) In cross examination, Mr Cobb was asked why, since he accepted that the signatures on the original will and the 2009 photocopy were identical, scanned copies of the 2000 will were relevant. The question was put several times and he was unable to provide an answer.

(3) In the Rebuttal Report, Mr Cobb is confused on this point and refers to a comparison with Fraser's will instead a comparison of the original will and the 2009 photocopy.

(4) Mr Cobb compared the witnesses' signatures in the original will and a copy to Fraser's will, without appropriately sizing up the copy of Fraser's will to reflect the size of the original, and without using the typescript as a reference point (reflecting the fact that the 2 wills were produced from the same offices by the same processes).

(5) Mr Cobb's account of what he meant by tracing was inconsistent and ultimately not credible.

(6) As set out above, Mr Cobb drew conclusions as to handwriting and signatures in the absence of comparables, and therefore without analysis of similarities.

(7) Mr Cobb could not explain why differences in horizontal alignment in the original will were relevant to whether it had been forged.

(8) Mr Cobb could not explain why differences in colour and horizontal alignment between the PDF and the original will were relevant to whether the original will had been forged.

50. I turn to consider Mr Cobb's conclusions as relied upon in the particulars of para 3 of the Amended Particulars of Claim:

> "(i) There are inconsistencies in colour between the pages of [the PDF];
> (ii) There are differences in the horizontal alignment of the text within [the original will];
> (iii) There are differences in the in the horizontal alignment of the text within [the photocopy] and between it and [the original will];
> (iv) The signatures of the solicitor and witness on [the original will] are in the same vertical alignment as in [Fraser's will], which was processed within days of [the original will];
> (v) The pen pressure of the solicitor's and witness's signatures are very similar;
> (vi) The angle of letter formation with the handwritten date and signature of [the deceased] are identical to those of [Mrs Watts]' signature;
> (vii) There is a strong probability that there are several different versions of the 2000 will;
> (viii) There is a strong probability that the solicitor's and witness's signatures on [the original will] were traced over from a copy of [Fraser's will];

(ix) There is a strong probability that Mrs Watts prepared the original will after the deceased's death."

Inconsistencies in colour between the pages of the PDF

51. In the PDF, pages 1,3 and 4 are in colour and page 2 is in grayscale. If the PDF is a copy of the original will, then these inconsistencies in colour must be attributable to how the scanning was carried out. In cross-examination, Mr Cobb accepted that the deceased's signature on the PDF was the same as his signature on the original will, and therefore that the PDF is a copy of the original will. In cross-examination, he could not explain why these colour discrepancies were relevant to the issue of whether the original will was forged. I find that they are not.

Differences in the horizontal alignment of the text within the original will

52. The lines of text in the original will show differences in alignment, which were measured by Mr Cobb. There is no misalignment for the first 5 paragraphs of the original will. The misalignment then begins, and gradually increases going down the page, though only to a maximum of 0.4385 degrees i.e. less than ½ a degree. Mr Handy's evidence was that progressing variation is to be expected when a folded sheet of A3 paper is passed through a roller type printer like a typewrite or a hybrid system of the type described by Ms Evans. Mr Cobb accepted this. Furthermore, he was unable to explain in what other way the misalignment could have occurred, or if it showed forgery, how it did so.

53. I find that these variations in horizontal alignment of the text within the original will have no relevance to whether it was forged.

Differences in the in the horizontal alignment of the text within [the photocopy] and between it and [the original will]

54. Mr Handy's evidence is that any discrepancies of this type are attributable to copying processes. Carlton's counsel did not rely upon differences in horizontal alignment within the photocopy, which would, in any event, be in my judgment irrelevant. Insofar as there are differences in alignment between the photocopy and the original will, I find that this is due to distortion in the copying process. They are not relevant to whether the original will is a forgery.

Signatures of the solicitor and witness on [the original will] are in the same vertical alignment as in [Fraser's will]

55. Mr Cobb's conclusion on this point was based on superimposing the original will over the copy of Fraser's will. However, as he accepted, the copy of Fraser's will requires enlarging by 5% to reflect the size of the original (of Fraser's will); and when this is done, the signatures do not align, either vertically or horizontally.

Pen pressure of the solicitor's and witness's signatures are very similar

56. Mr Cobb's opinion was that "the pen pressure of the solicitor's and witness's signatures are very similar, consistent with being written by a single person". In cross-examination, he accepted that this was a purely visual assessment, without access to any samples of signatures or handwriting of the two signatories.

57. Mr Handy's evidence was that the pen pressure employed was not quantifiable, and, while it did not appear to be significantly different between the two signatures, no inference could be drawn from this. He notes that both signatures and handwriting have been fluently made and that there is no evidence to suggest other than a free, natural hand.

58. As to this point, Mr Cobb did not say that such similarity of pen pressure was sufficient to conclude that the two signatures were written by the same person, only that it was consistent with that conclusion. In my judgment, it is plainly not sufficient, and I accept Mr Handy's evidence that no inference can be drawn from it.

Angle of letter formation with the handwritten date and signature of [the deceased] are identical to those of [Mrs Watts]' signature

59. In the Cobb report (at p12), Mr Cobb superimposes a signature of Mrs Watts over that of the deceased on a scan of the original will and records that in his view the angle of formation of many of the letters in the two signatures are identical. However, as noted above, Mr Cobb did not consider samples of either the deceased's or Mrs Watts's signatures or handwriting in producing his report.

Strong probability that there are several different versions of the 2000 will

60. This is in my judgment an allegation which has no evidential basis, and is in any event irrelevant. The court has only to determine the authenticity of the one document before it.

Strong probability that the solicitor's and witness's signatures on [the original will] were traced over from a copy of [Fraser's will]

61. Mr Handy's evidence, which I accept, is that the solicitor's and witness's signatures on the original will have been fluently made and the degree of fluency could not have been achieved with tracing. These signatures are free hand productions. In addition, if they had been traced, a significantly greater degree of similarity between them would be expected.

62. In the Cobb Report (page 6, Figure 7), Mr Cobb superimposed the original will and his copy of Fraser's will, with the effect that the solicitor's and witness's signatures fitted over each other. As noted, he accepted that the copy of Fraser's will required to be enlarged by 5% to reflect the size of its original; and that when this was done, the signatures did not align and were not identical.

63. As to tracing, Mr Cobb's evidence was difficult to follow. In his report he repeatedly refers to the signatures or signature section of Fraser's will being placed under the paper of the alleged original and the signatures and writing being traced. In cross examination he initially confirmed that by this he meant "written over, traced over".

64. However, he then resiled from this and said that what he meant was first, resizing the signatures, then using those signatures as "guide" by which to copy the signature free hand. This is in my judgment fanciful.

65. In any event, Fraser's evidence was that he did not provide a copy of his will to Mrs Watts until after this claim was brought, so the factual basis for the allegation of tracing is not present.

Strong probability that Mrs Watts prepared the original will after the deceased's death

66. Mr Cobb does not set out any grounds for this conclusion. In particular, he does not identify any method of dating either the original will or the signatures/handwriting on it.

Defendant's expert

67. Mr Handy's summary of his findings is that:
    (1) There is "strong evidence that [the deceased] signed [the 2000 will] and also strong evidence that he completed the handwritten date on the same page"; and

    (2) "Mr Cobb's conclusion that 'There is a strong probability that [Mrs Watts] authored the date and signature of [the deceased] on [the 2000 will]" is erroneous and unsafe based on examination of the items listed in his reports.

68. As noted above, Mr Cobb does not refer to any samples of the deceased's handwriting. The Handy Report refers to samples of the deceased's and Mrs Watts' handwriting, in a far more detailed and convincing exercise:

> "… While there was an element of loss of fluency in the 'E' and to a lesser extent the 'F', the surname had been fluently made with feathered pen lines, for example, between the two 't's and from the conclusion of the 's' to the left hand ended of the cross bar of the 'tt' component" §26

> "… when a signature is simulated, errors are usually found towards the end as opposed to the beginning, particularly should the latter stages be more complex in construction than preceding components, as was the case with the E. F. Watts signature" §27
>
> "… There was no evidence of either pencil or indented guide lines associated with the signature, such as might be employed to assist with a signature's simulation. Further, there was no evidence to suggest that the signature was other than a free hand reproduction" §28

69. Mr Cobb questions the comparison signatures used by Mr Handy as being mostly many years older than the 2000 will, some nearly 70 years old. However, Mr Handy observes:

> "Despite having been made over a period of at least sixty five years, the signatures were substantially similar to one another, indeed, there were no apparent significant differences between comparable components." §35

70. Carlton's counsel made a number of criticisms of Mr Handy's evidence (references are to paragraph numbers in his report):
    (1) He accepts that he is unable to establish the range of natural variations in the Deceased's signature (§42);
    (2) He accepts that he had no reference signatures of the Deceased from the time at which the Deceased was supposed to have signed the will (§43);
    (3) He noted a loss of fluency at the beginning of the alleged signature of the Deceased (§28);
    (4) He makes his conclusion conditional on his being subsequently satisfied that the examined reference signatures broadly represent the Deceased's signature at the time at which the will was signed (§52);
    (5) He also qualifies his conclusion that there is strong evidence to say that the handwritten date on the alleged original will was written by the Deceased – he accepts that that his conclusion is affected by the limited quantity of the Deceased's handwriting from the relevant time which was available to him.

71. As to these criticisms, (1), (2) and (3) accurately summarise Mr Handy's conclusions. However, he continues at §44:

> "However, there were no significant differences between the questioned and reference [deceased] signatures, although none of the latter appeared to contain the element of fluency loss in the "E" and (to a lesser extent) "F", as noted in the questioned signature; however, this could have been age related … he was aged 84 in 2000."

72. As to (4) and (5) it is also correct that Mr Handy's conclusions are qualified by the limited quantity of handwriting from the relevant date, but not by the presence of any significant differences. His conclusions include that there was no evidence to suggest that the 2000 will was other than an "as signed" document.

73. I have no hesitation in accepting Mr Handy's evidence, and rejecting that of Mr Cobb.

Conclusion

74. For the reasons set out above therefore, I find that the 2000 will is not a forgery.