Death-bed gifts in rude health: the recent case of *Vallee v Birchwood*

A timely reminder of the law of *donatio mortis causa*, revisited in light of the appeal in *Vallee v Birchwood* [2013] EWHC 1449 (Ch); [2013] WTLR 1095; [2013] 2 P&CR DG15 by counsel for the 'heir hunters' who represented the interests of the donor's relatives.

The case of *Vallee v Birchwood* concerned a *donatio mortis causa* found to have been made of unregistered land (the donor's home) notwithstanding that the donor continued to live in the property, without the presence or involvement of the donee, during a period of over four months between the date of the gift and the donor's death.

On appeal from a finding in favour of the claimant donee at first instance, the defendant 'heir hunter' argued that dominion in the property had not passed to the donee, and that the interval of over 4 months indicated that death was not impending when the gift was made, and that therefore two of the essential requirements for a valid *donatio mortis causa* were not made out.

Dismissing the appeal, the court revisited the landmark decision of the Court of Appeal in *Sen v Headley* [1991] Ch 425 and provided some interesting points of discussion for practitioners.

The notes discuss the doctrine in the light of *Vallee v Birchwood* and *Sen v Headley* and generally, and look to its future, including its possible application to registered, as well as unregistered, land.

Please [click here](#) to download the notes.

William Moffett
Radcliffe Chambers
wmoffett@radcliffechambers.com