

IN THE SUPREME COURT OF VICTORIA
COURT OF APPEAL

No. 1 of 2010

BETWEEN:

WILLIAM AND JULIA HOPKINS

Appellants

-and-

SAMUEL HOPKINS

Respondent

In 1975, Colonel William Hopkins and his wife Julia bought a large farm in rural Victoria and started the business of growing and selling olives. They gave up their previous jobs to work full-time on the farm. The business enterprise proved difficult, and they had to work hard to make ends meet. They have three sons: the twins Alfred and Tristan, born in 1980, and Samuel, born in 1983. Alfred and Tristan worked on the farm while they were going to school. In 1996, they left school and moved away from the farm. Alfred started a career in the Royal Australian Navy, and Tristan took up a job with a bank in Perth.

Like his elder brothers, Samuel worked on his parents' farm while he was going to school. In 1999, he told his parents that he wishes to leave school and take up an apprenticeship as a plumber. His parents replied that he was free to lead his own life but that he should also consider the impact of his decisions on them. They said that they were not able to work the farm on their own, and the business was not profitable enough to employ a farm worker at the usual wage rate of \$30,000 per year. If he were to leave the farm, they said, they would have to close the business and sell the farm. They offered Samuel to pay him \$10,000 per year once he worked full time on the farm.

Samuel, who had always been obedient to his parents, did not have the heart to leave the farm. He reluctantly agreed to stay on the farm after leaving school. Shortly before Samuel left school in 1999, Colonel Hopkins drafted a contract,

in which he and his wife undertook to pay Samuel \$10,000 per year plus free accommodation and food as long as he worked full-time on the farm, and Samuel acknowledged that he had no further claims against his parents arising out of the work on the farm. Samuel and his parents signed the contract. Samuel left school and started to work full time on the farm.

In 2009, Samuel started a relationship with Miriam, who is a practising lawyer. When he told her about his circumstances, she became agitated and said that he was being exploited by his parents. On Miriam's initiative, Samuel left the farm and brought an action against his parents for unconscionable dealing. While he acknowledged that he and his parents had intended to create legal relations when signing the contract, he argued that his decision to stay at the farm and accept \$10,000 per year as remuneration was based on his emotional dependence upon his parents, in particular his father. He argued that the value of his work was \$30,000 per year. Deducting the \$10,000 per year that he had received, and deducting further \$10,000 per year as the value of free food and accommodation, he claimed outstanding \$10,000 per year for a period of 10 years, a total of \$100,000.

Anirak J found unconscionable dealing and awarded equitable compensation in the amount of \$100,000.

Colonel Hopkins and his wife appeal on the following grounds:

1. The doctrine of unconscionable dealing is confined to one-off transactions. It does not apply to the rendering of work over a long period of time.
2. The only remedy for unconscionable dealing is rescission of the contract. Equitable compensation is not available. Samuel accepts that he cannot claim any extra remuneration if equitable compensation is unavailable.