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We’re now a nation of inheritance vultures

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Rising house prices and increased longevity mean that families are driven to fight in court over even ordinary estates

Society moves on, attitudes shift, straws blow in the wind. I keep stumbling on stories of contested wills, not among millionaires or businesses but workaday families. Inheriting, once regarded by middling and lower-income families as a sorrowfully sentimental thing, starts to seem crucial, anxious and angry. Owner-occupation and insane house prices mean that the most ordinary estate is worth fighting over: acquiring some bog-ordinary three-bedroom terrace can represent financial independence. The rise in blended families, with children from several partnerships, further raises the stakes.

In each of the last seven years there has been an increase in contested wills, where an applicant enters a £20 “caveat” to stop a grant of probate and begin the argument. It feels as if, after the scornful filial independence of the mid-20th century, a lot of us are becoming characters in a classic novel driven by “expectations” rather than just private ambition and hope. Think of Miss Crawley in *Vanity Fair*, with relatives and a wheedling Becky Sharp gathering like vultures, or Dickens’s Pip as an expectant gentlemanly flâneur. Or those families in 1930s detective novels thinking of slipping something in a tiresomely robust ancestor’s cocoa.

The financial generation gap widens. Inheritance now matters to ever more people and disinheriting, the final weapon of the disempowered old, is coming back. A notable judgment was last week against three brothers who were written out of their 86-year-old mother’s will because their sister was her carer. In the last will the lady even inserted a “declaration” to explain the decision, saying that despite her requests the brothers did “not engage with any help or assistance”. They argued “undue influence”, a popular plea suggesting that the deceased was not of sound mind. In this case, though, Judge Jonathan Arkush upheld the will (the fortune was just an ordinary house in Tooting, south London, but valued at £1 million).

Earlier we saw a battle between a disinherited daughter and some animal charities. The court awarded the woman £50,000, she appealed and got it trebled, then lost when the Supreme Court knocked it back to fifty. Another daughter challenged her father's will and got £30,000 for a veterinary course on the grounds that she had tried to get the funds from him but he kept refusing.

Disinheriting is not as easy as it used to be. The 1975 Inheritance Act states that if there are dependants, provision must be made for "appropriate" support. But proving dependence can be tricky. Cohabiters can claim, as can their children by former partners if they were "treated as part of the family". On the other hand, with modern longevity many people give offspring money in their lifetime for a deposit or a business. So they may consider their duty done (even if the beneficiaries wasted it) and leave everything else to charities. Or, indeed, to new younger partners who look after them. Whereon the indignant claims of blood roll in, to enrich and aggravate lawyers. One I talked to, from the specialist Solicitors for the Elderly, was a mine of horror stories about the difficulty of establishing "cohabitation" and excoriated the rise of mountebank will writers and "estate planners" who are not qualified or regulated, don't take proper notes, and sometimes go out of business "leaving the paperwork blowing about on the council tip".

It is not easy to contemplate one's own death, and some testaments are written early and lightly: people apparently "sign wills on stag nights". More solemnly, that lawyer once dealt with a June 1944 scrawl on the back of an army paybook at D-Day, duly witnessed, giving £5 to a mate. There was no subsequent and soberer will but the gallant solicitor got the pal his fiver and the residue to the old soldier's subsequently acquired family.

The rise in challenges should make anybody burdened with serious money (that is, a home) consider how to make their own sense of justice, duty and affection stick. Especially if they're old, thus likely to be posthumously accused of being gullible or demented. Some lawyers advise clients to get a doctor's note at the same time, affirming that they are of sound mind, especially if they want to benefit a carer or new partner without long-estranged children and ex-partners claiming that they were cynically manipulated.

The 1975 Inheritance Act moved the issue away from the flat cold certainties of law into the cloudier zone of "equity": a general concept of fairness. Which may not, face it, coincide with the dead person's opinion. There's a wonderful metaphor from the 17th-century jurist John Selden. Equity, he says, "is a roguish thing" because law is a set measure but equity lives in a chancellor's mind. His line is cited in law schools: "It is as if they should make the standard for the measure we call a foot, a chancellor's foot. What an uncertain measure would this be? One chancellor has a long foot, another a short foot, a third an indifferent foot: 'tis the same thing in a chancellor's conscience."

Well, you could argue that the dead need no money, and that the living, the courts, should decide by chancellor's foot who gets lucky. Or you could brush it all aside and talk of death duties, "dementia tax" and social justice. But where absurd house values cause the most frugally-living owner-occupiers to die startlingly rich, the question of the will is as serious as it ever was.