

McPhail v Doulton [1971] AC 424

<https://lawcasesummaries.com/knowledge-base/mcphail-v-doulton-1971-ac-424/>

Facts

- In 1941, Bertram Baden executed a deed settling a non-charitable trust for the benefit of the staff of Matthew Hall & Co Ltd and their relatives and dependents.
- The objects clause of the deed provided that:
 - *"The trustees shall apply the net income of the fund in making at their absolute discretion grants to or for the benefit of any of the officers and employees or ex-officers or ex-employees of the company or to any relatives or dependants of any such persons in such amounts at such times and on such conditions (if any) as they think fit."*
- Baden died in 1961.
- The validity of the trust was challenged on the basis that the objects of the trust were insufficiently certain.

Held

- Lord Wilberforce noted the fact that the settlor had left his property on trust, with instructions to distribute according to the trustees' choices.
- This meant that the trust property was not to be distributed equally among the beneficiaries.
- in *McPhail* the House of Lords restated the law, abandoning the "complete list" test in favour of an "is or is not" test.
- Lord Wilberforce phrased the new test of certainty for beneficiaries as: "Can it be said with certainty that any given individual is or is not a member of the class."

Quotes

"As a matter of reason, to hold that a principle of equal division applies to trusts such as the present is certainly paradoxical. Equal division is surely the last thing the settlor ever intended: equal division among all may, probably would, produce a result beneficial to none. Why suppose that the court would lend itself to a whimsical execution? and as regards authority, I do not find that the nature of the trust, and of the court's powers over trusts, calls for any such rigid rule. Equal division may be sensible and has been decreed, in cases of family trusts, for a limited class, here there is life in the maxim "equality is equity," but the cases provide numerous examples where this has not been so, and a different type of execution has been ordered, appropriate to the circumstances."

(Lord Wilberforce)

Full Text

The full text is available here: <http://www.bailii.org/uk/cases/UKHL/1970/1.html>

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