

FAMILY DISPUTES

Court brands homemade wills a 'curse'

■ **Natasha Boddy**

Homemade wills are a curse and inevitably lead to protracted and expensive legal battles in family disputes involving substantial estates, the master of WA's highest court has warned.

Supreme Court Master Craig Sanderson made the comment in a judgment last week involving a family dispute over the substantial estate of a Bullsbrook horsebreeder who died in 2003.

Master Sanderson said the legal issue around the "proper determination" of the man's will could have been avoided if he had "consulted a lawyer and signed off on a will that reflected his wishes".

In the judgment, Master Sanderson warned of the pitfalls of homemade wills, saying there was no question that engaging a properly qualified and experienced lawyer to draft a will was "money well spent".

"Homemade wills are a curse," he said.

"Occasionally where the assets of a testator are limited and where the beneficiaries are not in dispute, no difficulties may arise in the administration of an estate.

"Flaws in the will can be glossed

over and the interests of all parties can be reconciled.

"But where, as here, the estate of the deceased is substantial, the will is opaque and there is no agreement among the beneficiaries, the inevitable result is an expensive legal battle which is unlikely to satisfy everyone."

Rod Cunich, from Slater & Gordon, agreed and said it was crucial for people to ensure they had a properly drafted will.

Mr Cunich had seen many cases where wills had torn families apart. "There's a mindset that wills shouldn't cost much and that if a lawyer is prepared not to charge for it or the charge is minimal, they think, 'I should have a go myself, it must be highly easy'," he said.

Mr Cunich said many people did not understand the "nature of what they owned" and valid wills often needed certain words and formalities and had to be signed correctly.

He also advised parents to discuss their wills with their children.

"If there's some reason they are not prepared to discuss it with the kids, which might be that they're embarrassed, then they can be rest assured, it will definitely cause trouble," Mr Cunich said.