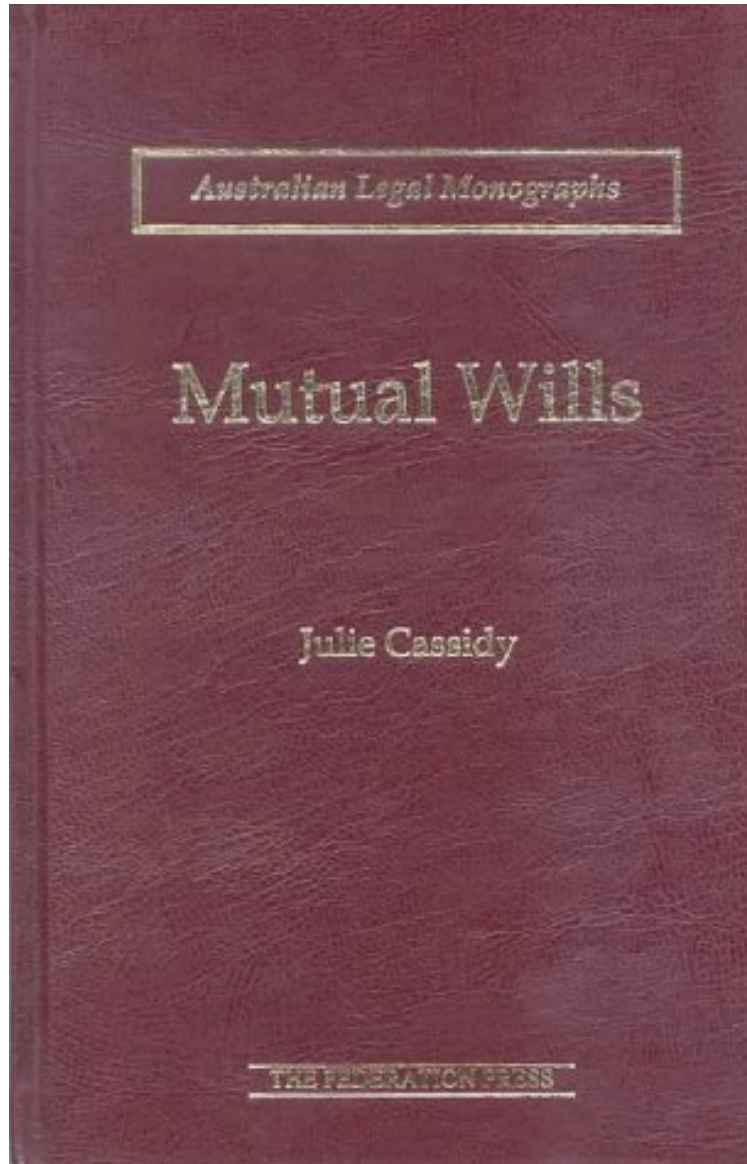


[Mobile ebook] Mutual Wills (Australian Legal Monograph)

Mutual Wills (Australian Legal Monograph)

Julie Cassidy

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Julie Cassidy : Mutual Wills (Australian Legal Monograph) before purchasing it in order to gage whether or not it would be worth my time, and all praised Mutual Wills (Australian Legal Monograph):

Mutual wills are a little known but very convenient route for testators who wish to ensure that their estates devolve as they wish. They give rise to legally binding obligations on the part of the testators: a breach of these obligations is considered an equitable fraud and may be relied upon by a testator, or the intended beneficiaries under the mutual will,

when seeking relief. Practitioners need to take particular care when setting up mutual wills or advising on them. It is a subject deep in misconceptions, in particular on the prerequisites for establishing mutual wills. Cassidy's text seeks to dispel the many myths. To this end, each prerequisite to establishing a mutual will is considered in turn and the relevant law examined.

This is a concise well-written treatise on this somewhat obscure topic. One notices throughout this text that important and relevant quotations are set out in full, which is a boon to practitioners. One of the useful things this author does along the way is to demolish various heresies - such as the claim that the survivor must receive an interest under the first will. The remaining chapters deal with remedies and the effect of mutual wills, including such things as who has standing to enforce the trust and the difficulties associated with land under the Torrens System. This is a most worthwhile monograph. *Australian Law Journal* 206, 2001 Cassidy, the author of this terrific little book, has written a thoroughly researched, easy to read, 94 page book on an aspect of succession law which I think has been often overlooked by practitioners when acting for their clients in the past and which I also think will have an ever-increasing importance. I found the book very well written and it was refreshing to see clear-cut statements without any ducking and weaving, nor any *with respecta*. An example is on p 74 where the author states *Barwick CJ's* finding is erroneous for four key reasons and then clearly, and convincingly, sets them out. There are two perks about being given a book to review for a publication. The first is you get to read the latest work on an aspect of your legal speciality, and not only review what you know but learn stuff you didn't. I did. The second perk is you get to keep the book. I will, in my office, and within reach. Tim Whitney, 21 *Queensland Lawyer* (June 2001) 185 Proctor (December 2001) 39 Associate Professor Julie Cassidy has satisfied the need for an authoritative text on mutual wills. It may not sell more copies than the Bible but it does deserve a place on your bookshelf. *Law Society of Tasmania Newsletter* This book is needed because of a dearth of authority and material on the doctrine of mutual wills. It covers both the prerequisites which need to be established to bring the doctrine into effect in relation to wills, and the consequences of the doctrine once it is in effect... Due to the increased incidence of marriage breakdown and subsequent remarriage, the subject is of increasing practical relevance. These days many mutual will problems arise in the context of disputes between the testator's former spouse and spouse at death, or their children. The appearance of this monograph is therefore timely. I am not aware of any other treatment of the Australian law which is up to date and of comparable breadth and depth. The publisher is to be commended for making it available. After an introductory chapter the author deals with the theoretical basis of the mutual wills doctrine. She rightly grounds the doctrine in equity. She then deals with the peculiar problems of burden of proof in circumstances where an agreement is alleged where both parties to it have died. The author then sets out the requirements which need to be satisfied before an agreement for mutual wills will be found to have existed. Following this are two short chapters concerning the requirements for consideration (if any) and disposition of property under the agreed wills. The remainder of the book is devoted to a consideration of the effect of there being found to be mutual wills. The final chapter analyses the trust and other implications of mutual wills, and the way in which the existence of mutual wills affects the disposition of property and administration of the deceased estates. The book has extensive reference to Australian, English, New Zealand and Canadian cases. This is most desirable in an area depending on equitable doctrines. The important cases are discussed in detail. There is also reference to foreign statutes ... I found the book easy to use and well set out. It is well-written and easy to understand. The author's treatment of the topic is held together by her over-arching theoretical contention that the doctrine is best viewed as an equitable one. I would recommend the book to practitioners involved in succession and estate planning, and also in family and property law. *Law Institute Journal* (Victoria), June 2001