



## Forfeiture of inheritance

For centuries, courts have developed the common law on the basis of public policy. One aspect of the common law is that a person is disqualified from inheriting a deceased estate if the person murdered the deceased. So, when in 2008, Ah Bee Mack was killed by her son Brent, Brent was excluded from inheriting Ah Bee's estate. The result was that her estate passed on intestacy to her only other child, Adrian. In 2014 Adrian died. He died without a will. His beneficiaries on intestacy were his brother Brent and a half-brother Gary. Ah Bee's estate had not been administered, so Adrian's estate included his inheritance from Ah Bee. The court was asked to decide whether Brent's share of Adrian's estate included the inheritance from Ah Bee's estate. If it did, Brent would indirectly inherit the estate of the person he murdered, something he couldn't do directly. Because of the same reasons of public policy that gave rise to this aspect of the common law in the first place, the court developed the common law to prevent Brent from obtaining the indirect benefit through his brother of his murdered mother's estate.

## Does the will make sense?

Neil Jones left a will in which he left shares of his estate to "all my great nieces and nephews provided ..... they attain the age of twenty-one years, particulars as follows as to one-eighth share thereof to each of the following grandchildren". He then named eight people. Now Jones had sixty-nine great nieces and nephews at his death but only two of the eight named people fitted that category. Jones had no children so he couldn't have grandchildren! What was the court to make of this clause? The court decided that the reference to great nieces and nephews, as well as the reference to grandchildren, was meaningless and surplus. It said that each of the eight named people got one-eighth share of the estate.



## Reg Grundy's estate



It's been said that more Australians have watched more hours of Reg Grundy television than any other individual. In the 1970's and 80's, he produced TV shows like "The Restless Years", "Young Doctors", "Prisoner", "Sons and Daughters" and "Neighbours". He sold "Prisoner" to American television and later produced shows specifically for the US market.

He died in 2016. In the previous year, his worldwide wealth was estimated at \$809 million. He left only a small part of that wealth to his only child, a daughter now called Viola. Viola has bought an application in the Supreme Court of New South Wales for greater family provision. The executors have conceded that Grundy's estate was worth about \$214 million but could be more. They said that it was unnecessary to be more specific as that amount was more than enough to provide for whatever extra provision the Court may order for Viola. The Court has rejected that argument and told the executors to fess up.

## Care is needed with testamentary intentions

Mary Duggan made a will in which she left an apartment property at Randwick to her two daughters. Mary stated that she wanted female members of her family to benefit from her estate. She used the expression "the girls". These statements were a recurring theme every few months over a period of twenty years, both before and after her last will in 2011.

The Supreme Court was asked to decide whether these statements had the effect of imposing trust obligations on the gift in the will of the Randwick apartment. Potentially, the daughters were not the beneficiaries of that property but a wider group of girls. The Court decided that Mary's statements fell short of an explicit understanding that the apartment be held on a trust. The terms of the trust could not be determined with the necessary degree of certainty: who exactly were "the girls"? Also, the nature of the benefit for "the girls" was indefinite.

This is yet another example of the care that is needed with expressing testamentary intentions. If wills are not made carefully and properly there can be a large amount of costs for beneficiaries, worry for executors, and delay, confusion, and disharmony for all.



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