

THE CHURCH LEADERS PROTECTING ILLEGAL IMMIGRANTS FROM TRUMP

Good Weekend

MARCH 1, 2025

SATURDAY AGE



“There’s not going to be a nice family Christmas after this”

Australia’s escalating inheritance wars

BY *Konrad Marshall*

"People told me when it started, 'Get out, get out, get out,' as if I chose to pick a fight," says one woman of a court battle with her stepfather over her mum's will. "But I wasn't the one doing anything. I was sued!"



WHERE THERE'S A WILL ...

THERE'S (POTENTIALLY) A WAR

With blended families the new normal, and a record \$3.5 trillion intergenerational wealth transfer expected over the coming decade, inheritance clashes worthy of a TV series are set to balloon.

BY *Konrad Marshall*

WHEN YOU first meet Suzanne*, the middle-aged Melbourne mother exudes the calm contentment of an educated, upper-crust lady, reflecting on a life that began with a happy childhood. Her wealthy parents had an ostentatious streak – silk couches, mink coats and crystal stemware – but Suzanne wasn't really interested in the trappings of their privilege. "I just remember my parents together," she says, the corners of her eyes crinkling as she smiles. "They used to dance down the hallways."

Her father died when she was young, however, and a familiar story unfolded. Her widowed mother remarried. Her new stepfather was unkind. "He would belittle," Suzanne murmurs, "and bully."

When her mother grew sick more than a decade ago, their family asset pool was still worth multiple millions, albeit in a tangle of trusts, superannuation and properties in Melbourne's leafy eastern suburbs and seaside playgrounds. Fortunately, the dying matriarch at least seemed clear about her will. The lion's share would go to the children, but the stepdad would be taken care of, too. The succession plan was transparent and formal. Suzanne remembers a text from her Mum shortly before she died: *It's all sorted. Do not worry.*

"Watching my mother die was just horrendous. But what happened afterwards..." Suzanne says, pausing. "It was devastating."

What happened was a fight over the will, started not by Suzanne, but her stepfather. He wanted it all.

Such legal battles often last a handful of years, and so it was. Costs mounted by the billable minute, until Suzanne was more than \$250,000 in debt defending her inheritance. The case loomed over everything. Work. Holidays. Her kids' sporting triumphs: "Be brave,' I'd say to them, 'I'll be your mother again in six months.' But then it goes on for another six months." She hoped the court would hear her story, "just like in the movies", but recalls only being grilled about the cost of her top-tier private education. "At some point the judge just decided I was spoilt," Suzanne

says. "She was basically saying, 'You're not entitled to feel entitled.'"

And her stepfather? "The judge was convinced that we needed to look after this 'poor little old man', and let him stay in the big bay-side house because he knows where the knives and forks are but..." she says, stammering, "...he's a monster."

Explaining what happened, Suzanne (not her real name, owing to a confidentiality agreement of the kind common in such disputes) scrolls compulsively on her tablet, through an archive of evidence and grievance. She gulps as she breathes, as if still unable to swallow the outcome. Her mother's wishes weren't upheld, she says softly, and her stepfather won a far greater share of the estate than he was left.

It wasn't the money that stung most. Suzanne wanted to be the one to pack up her mother's belongings. Instead, heirlooms were withheld, even given away. It was all the bitterness and rancour that we imagine when we think of family estate battles.

"People told me when it started, 'Get out, get out, get out,' as if I *chose* to pick a fight. But I wasn't the one doing anything. I was sued!" Suzanne pleads. "I was a completely different person before this. Much stronger. An idealist. And now? Now I'm not."

IF SUZANNE felt alone in her struggle, rest assured, she'll soon have company. A decade or more of vicious family battles is coming, for a whole host of reasons. Statistically speaking, the first of the Baby Boomers have about five years left to live. The Productivity Committee says their Australian cohort will pass down about \$3.5 trillion in the next decade, in what will be the largest intergenerational wealth transfer in history.

That would be fine, except they're not remotely prepared. A 2024 report commissioned by Australian Seniors found that a third of people over 50 haven't got a will, and of those who do, half haven't updated it in more than five years. Updating is crucial, too, because circumstances and relationships change. The

2021 census found more than 12 per cent of Australian families with children were made up of couples on a second marriage – blended families, with all the uncertainty that entails. (Just ask Suzanne.)

We're living longer, too, our median age of death rising from 69 to 82 over the past half-century. Provisional data indicates that the leading cause of death in Australia will soon be dementia – hardly ideal when making pivotal decisions about huge sums of money. Not only that, the average age of firstborns upon the death of a parent is now 55, and they're often saddled with massive mortgages, leading to "inheritance impatience", where adult children coerce their folks into divesting early, often against their own interests.

Thankfully, more than 90 per cent of estate disputes are resolved in mediation, but the few cases that do see the inside of a courtroom are often so highly charged as to make the nightly news, and our voyeurism normalises such squabbles. Estate law has always been ripe for dramatic representation, from the stage (*King Lear*) to the page (Charles Dickens' *Bleak House*) and now the screen, from reality TV (*Inheritance Wars*) to the humble sitcom (*Fisk*) and prestige drama (*Succession*). Any wonder? It is dramatic.

Lawyers aren't easily shocked by what people do in their worst moments, yet Queensland barrister Caite Brewer says the confluence of grief and greed produces a unique brand of ugliness. She can't forget the case of a young father, killed overseas in active service. He left behind a bright baby boy, but also an outdated will, written before his child was born, leaving everything to his siblings. "This young kid, less than a year old, lost his dad," says Brewer. "And the brothers and sisters fought tooth and nail to *not* give that kid anything."

Solicitor Anna Hacker of Pitcher Partners in Melbourne tries to see the lighter side of her chosen area of law, which makes sense as a consultant for *Fisk*, the hit ABC comedy about a hapless estates and wills lawyer played by Kitty Flanagan. Hacker even came up with a few storylines, like the classic episode where a hot, noisy photocopier is put into the titular *Fisk*'s office (something that happened to Hacker once), and the one where the male boarder in a granny flat claimed a sexual relationship with an elderly grandmother, then threatened to share what she was like in bed if he didn't get his cut. ("That's actually a classic," says Hacker. "Every estate-litigation lawyer has had one of those.")

But the emotional seriousness of challenging a will – torching an entire family dynamic – can't be overstated. Hacker delivers a grand spiel in her first meeting with any new client, emphasising resolution, not just because of the stress of fighting over a will, but the irrevocable trauma. "It is going to get really bitter, really quickly," she warns them. "There's not going to be a nice family Christmas after this. Are you comfortable with that?"

She remembers one client, long ago, who came back after that initial meeting to say she'd rather maintain the relationships than challenge the will, even if dropping her claim meant leaving a few hundred thousand dollars on the table. "That was one of the most impressive



Above: as an estates and wills lawyer in Fisk, Kitty Flanagan's character has faced scenarios inspired by real-life legal clashes.

things I've seen a client do," Hacker says. "But she was the only one."

What's far more common is the willing – sometimes enthusiastic – evisceration of a shared history. I speak to a woman from Brisbane, Dolly*, who remembers the spiteful tussle over her mother-in-law's estate – an episode her husband still struggles to reconcile. The dispute was about money at first, then he was left out of remembrance planning, and finally, the spreading of her ashes. "That devastated him," Dolly says. "To this day he won't speak to either one of his sisters again. These things have long-standing consequences."

Greed is a powerful motivator, but it's not the only one. Sometimes challenges come from people reacting to wills that are manifestly unfair, which is where the concept of "freedom of testamentary disposition" needs explanation. You probably think, for instance, that you've lived your life, worked hard, made your money, and you can leave it to whomever you want. Right?

"But the legislation says otherwise," notes estate-law specialist Andrew Meiliunas of Nevett Ford. "Sometimes people are really harshly done by in wills, and they have to be protected."

Such as when a mother with strong religious views disowns her daughter for leaving the faith. Or a father can't cope with his son's sexuality and cancels his inheritance. "The one I have in my mind was a woman who didn't turn up to her dad's 70th birthday because her kids weren't feeling well," Meiliunas says. "The next day, the dad wrote her out of the will."

That kind of will won't always stand up to a legal challenge. Solicitor Andrew Simpson literally wrote the book on the subject (*You Can't Take It With You*) and says the capricious will is a great conundrum. "A father will come in and say, 'I want to make a will that's watertight, and I want to cut out my eldest son,'" says Simpson. "I can do my best, but I can't make it watertight."

The father might say he's been estranged from his son for decades. Or perhaps that the son was openly hostile. Fair reasons to cut him loose, on face value. "But there are two sides to any feud," Simpson says, "and if the son sees things differently – 'Dad was a mean bastard' – the courts are reluctant to apportion blame." The law is also duty-bound to recognise the need for "family provision". This dates back to the 1890s, when women were not allowed to own property, and men would leave their estate to their kids or a neighbour, leaving wives destitute. It led to a public outcry, says

Georgina Grigoriou, a veteran mediator known to other local estate lawyers as a kind of legal Robin Hood. The result was a piece of social engineering: jilted family members being able to apply to vary a will through the courts, if they could demonstrate they were in need.

Grigoriou explained the concept to a client the very morning we meet. It was a woman, incensed that her mum had left her nothing, but left her little sister \$2.5 million. The client was worth \$9 million – hardly in need. "I advised her, 'Don't bother challenging the will. If you can't show need, you're going to lose.'"

Wills can also be challenged if the testator making them didn't act in a "wise and just" manner. That doesn't mean equality or fairness. "And it doesn't mean balance," adds Grigoriou. "But where there is a moral obligation to make provision, we have that responsibility."

It's basically a countermeasure to an unfortunate reality: people using their estate as a means of settling scores, or showing who's boss. That's the case for Diane*, who lives in country Victoria and is surviving on a disability pension. Now in her 60s, she had a tumultuous relationship with her mother, who is "trying to rule from beyond the grave".

How? Through a will that grants Diane nothing from an estate package that could be worth more than \$7 million, but instead provides her with a modest monthly allowance derived from a trust, wholly controlled by Diane's more-favoured sibling. "It's not about the money," insists Diane, who is currently challenging the will. "It's about being controlled and treated like a dog. Getting to the bottom of the will, that hurt. I just cried. Like, why was I not good enough?"

Sometimes the testator is the vulnerable party, too. St Kilda solicitor Lachlan Einsiedel often handles guardianship disputes through the Victorian Civil and Administrative Tribunal – basically battles to control an estate *before* someone dies. "It's similar to a fight over child custody, but for someone with dementia," he says. "I call it the entrée before the main course."

Most often, the victim is a confused and isolated senior citizen, being coerced or pressured into selling their house and advancing the proceeds to greedy children, who are trying to break into the bank of mum and dad – eyeing what they believe they are one day owed. But more often than not, selling the house trips the Centrelink means test. "Suddenly the elderly person has no pension



and no assets to fund their aged-care fees," says Einsiedel. "They're stuffed."

And if the enfeebled aren't being taken advantage of prior to death, there's always the chance they will be afterwards. Joel Whale, a wills and estates lawyer in Sydney who works with high-net-worth individuals, says legal actions from kids questioning their dead parents' former cognitive capacity are growing every year, too. Whale remembers a son who was unhappy with what was left to him by his octogenarian mother, who had motor neurone disease. He challenged the will, alleging that she wasn't able to communicate properly, despite detailed solicitor's case notes from almost a decade prior showing she was lucid and communicative.

"The solicitor had retired and relocated to the UK, but we had to find him, and test his recollections," says Whale. "I can't even remember what I did on the weekend."

IF HOSPITAL wards and retirement communities are fertile ground for will challenges, at the other end of the spectrum is another increasingly common frontline: farms. "The worst mediations I've ever had involve sexual abuse – or farmers," says Grigoriou. "It's the land. You can't make more of it, and for farmers, the land is in their soul."

Andrew Meiliunas paints a picture of moderately wealthy farmers who came here from war-torn Europe decades ago. They distrusted financial institutions but believed in property, so they bought a farm, and perhaps a market garden, which was then rezoned and which is now worth a small fortune. "They're not making the Rich Lists, but they're worth \$20 million and they're *everywhere*. They're just among us," he says. "But with that comes a lack of sophistication in their succession planning."

Sexism is often a factor, too. Shane Newton, the most senior Melbourne barrister in estate law, recalls a case where a father left his son a farming property worth \$10 million. His daughter got \$20,000. The daughter challenged the will, but her own mother gave evidence against her in court. "The mother said the plan was always the same," says Newton. "The son would get the farm, and the daughter would get a husband."

That doesn't have to be the way, however. Professor Prue Vines of the University of NSW is perhaps the country's foremost academic in estate law, one who has her own related experience. Her father-in-law was a successful farmer with five kids, and called Vines to ask if he could give the property to just one?

He could, Vines advised, but it would be best to explain the decision to all of them, because all the kids grew up in the same fields, chipping cotton before and after school. He took the advice and offered them his rationale: "Four of you are well-off, but one isn't, and he loves farming."

"It gave the others time to feel cross," Vines says. "After about three months, they came back and told him: 'It's fine, Dad, it's your farm.'"

Then there are those who own mega-farms, where the stonking totality of a family's uber-wealth is tied up in vast acreage, but with little cash to pay anyone out. They tend to meet with someone like Eleanor Moffat, a family office accountant with international advisory firm BDO. We talk in a Melbourne Docklands boardroom overlooking a vertical garden, and Moffat explains how the "family compass" trend that began long ago with the JP Morgan

Below: warring siblings in TV's *Succession*. The uber-wealthy have their own inheritance strategies to "protect the pot", says one family office accountant, before "the third generation loses it".



and the Rothschilds families, has taken off lately with her clients, who are worth anything from \$50 million to several billion. “They’re all wary of the phrase ‘shirtsleeves to shirtsleeves in three generations,’” Moffat says. “The first generation makes it, the second generation keeps it, the third generation loses it. They want to protect the pot.”

They do this by eschewing the provincial practice of divvying everything up on death, instead creating charters to manage the family wealth, so that subsequent generations aren’t inheritors but stewards.

When it comes to big money, fights also arise where large philanthropic donations are involved. In an age of government cutbacks, charities and not-for-profits have become borderline vicious about getting their due. From cancer research centres to lost dogs’ homes, bequest offices are now armed with people who help write donations into wills – then defend those claims against sons and daughters who are angry at Mum for leaving half the family fortune to an opera company. “When charities are beneficiaries of a will, they are made of no milk of human kindness,” says Grigoriou. “When I’ve got a charity opposed to me on a matter, they are *awful*.”

No matter the combatants, there’s something admirable about the fight to uphold the intention of a will – or to foil raw opportunism. That was enough motivation for Russell*, a retired accountant from western NSW. His experience came long after the death of his mother and father, then stepmother, who left her estate to a handful of people from a local fundamentalist church, who had insinuated themselves into her will as the only beneficiaries.

Russell is comfortably well-off, but his siblings aren’t, he says, and their children deserve a start in life. So he challenged on their behalf, travelling to Melbourne to attend mediation, and won a share of the estate. “I think the longer it went on – the more I dug my heels in – the more the beneficiaries must have felt, ‘I’m sick of this, I don’t want to be in this battle, it’s costing us too much’, and I was getting stronger because of that,” Russell says. “But what they were doing was wrong, and I needed them to know that.”

It’s a familiar sentiment, echoed by Jane*, a woman from the NSW north coast who held firm during a mediation over her mother’s \$800,000 estate, after a shock challenge from her stepsisters. “Everyone kept advising us not to let it get to court, because it would chew up the money,” says Jane. “But if we weren’t getting it, *they* weren’t getting it either. That was our attitude.”

It does pay to be aware of the costs. The Dickens novel *Bleak House* is about a fictional wills dispute – “Jarndyce v Jarndyce” – that goes on and on until the entire inheritance is swallowed by lawyers. It’s believed to be based on the true story of a British case that ran for 117 years. (There’s actually an estate law group in Melbourne that named its offices Jarndyce Chambers.)

ONE ORDINARY Tuesday morning, I go along to the Supreme Court of Victoria to see an incredible amount of money being spent fighting over the estate of a roofing contractor, pitting the children of his first marriage against the new spouse and her daughter. (Blended families, at it again.)

This roofer didn’t leave a will, and the dispute is over his luxury car collection, which includes a Ferrari, Bentley, Rolls-Royce and



“(Fighting over a will) is going to get really bitter, really quickly.”

Anna Hacker



“Sometimes people are really harshly done by in wills, and they have to be protected.”

Andrew Meiliunas



“(The wealthy are) wary of the phrase ‘shirtsleeves to shirtsleeves in three generations.’”

Eleanor Moffat



“When charities are beneficiaries of a will, they are made of no milk of human kindness.”

Georgina Grigoriou

two Mercedes. In a muted white-walled room with plush blue carpet, lawyers in black robes spend hours diving into the somniferous history of century-old statutes.

“I just did the sums on the money being burnt around that table,” whispers Meiliunas, my guide to the proceedings. The three barristers, he says, are each worth about \$6600 a day, and the three instructing solicitors about \$3000 a day, not to mention costs for affidavits. “This exercise is probably going to cost \$100,000, for two days in court. All because the old man didn’t leave a will.”

Many lawyers, however, say their peers are complicit in creating fights by offering “no win, no fee” inheritance challenges – giving people a free shot to make spurious claims, knowing that many will settle to avoid war. “It’s a bit of a stain on my profession,” says the Sydney specialist Joel Whale. “What is it they say? ‘The lawyers always win at the end of the day.’”

Another trend behind the rise of family fights is the global nature of our community, with many family members living far and wide, leaving some children much closer to their ageing parents than others. Estate law author Brian Herd talks about “the martyr child” as the latest source of challenges. “You have this one child, living down the road from Mum and Dad, and they’re providing all the care, support and management of their elderly parents, and they’re asking, ‘Why should I get an equal share when I’ve put in all this effort, and all the others do is send me emails asking what’s happening?’ They feel entitled to a bigger cut.”

Superannuation is another massive issue, as it now often dwarfs the value of the family home, but is not considered part of the estate. Super is distributed by the trustees of the funds themselves, so it’s imperative that people have a binding death benefit nomination in place – explaining who should get their super – unless they want to start a second, separate fight for cash once they’re dead.

Financial power of attorney arrangements are being ignored by many of us, too. Herd has a case where a woman, who was the sole director of a large company, had a stroke and ended up in a vegetative state with no power of attorney in place. “Her four kids can’t agree who should apply to make financial decisions for her, so the company is frozen in time – haemorrhaging money – while they compete for control.”

Ultimately, says Herd, we’re often too afraid to face up to these existential decisions. “The question for most Australians when doing a will is, ‘What’s in it for me?’ and the answer, logically, is nothing. Except the legacy of relationships you leave. Because when you mess this up, your family implodes.”

This feels like the right time to confess to Herd that I’m 47 years old and have no will. Nor any power of attorney. And I really have no idea if I’ve nominated my wife to receive my superannuation death benefits. He pauses and chortles: “You’re a lawyers’ picnic.”

I don’t want to be, so I resolve to do something, by grabbing a will kit from the local post office. “Don’t do that,” cautions Andrew Simpson, who used to work for Maurice Blackburn but now has his own shingle in suburban Nunawading. “They create so many problems: people mess up the form, don’t get it witnessed properly, or try to give away stuff they don’t own,” he says. “They leave \$25,000 to ‘my friend, Peter’, without a last name. They make unenforceable requests, like demanding

their house is never sold to developers.” Simpson encountered a will a few years ago that left a sizeable donation to “an organisation for cows”, with no further explanation.

Another option is an online will. Adam Lubofsky co-founded Safewill in Sydney in 2019 after a friend died and the resulting legal battle compounded an already profoundly difficult time. “She was in her early 30s, so the will fell into that bucket of ‘It can wait,’” says Lubofsky, “but the reality is that life isn’t guaranteed for any of us.”

His platform – which has since been used to draft more than 200,000 wills – offers a basic DIY digital will for \$160, but also support from a team of lawyers through a chat function (if the will is more complex).

Anna Hacker has test-driven a few online providers, to see if she could fool their AI offerings. Often the portals did an impressive job of building a coherent will, but in one case a company allowed a final free box of text, into which she wrote: *I don’t care what else I’ve written in this will – I want to leave everything to my cat.* “And that was in the final will that was produced,” says Hacker. “Not really ideal, but great for estate litigators!”

Nevertheless, I, Konrad Marshall, being of sound mind, sit down at my computer in my pyjamas to make my last will and testament, and the process is both daunting and confronting. If my wife dies with me, who would I want to be our son’s guardian? What special gifts would I like to leave? Which poor bastard do I want to make my executor? What songs should be played at my funeral?

It takes two hours, and then three days for the Safewill legal team to look it over and return it for signing. Still, I have Meiliunas give it a look. He likes how it’s in plain English – instead of the baffling jargon lawyers often introduce. He likes how it prompts you to supply contact details and birthdates for executors or beneficiaries.

But it also only takes a few minutes for Meiliunas to raise more nuanced questions that didn’t occur to me. If my wife dies with me, for instance, should our estate go directly to our son when he’s 18, or maybe 25, or should it go into a protective trust administered by one of his uncles, and which uncle?

Say “family trust” and people immediately think of Rineharts and Lowys, Murdochs and Pratts, but you don’t need to be a tycoon to benefit from such arrangements, which can be as simple as a few extra pages in a basic will. “You’re not going from a Camry to a Maserati,” Meiliunas explains. “It’s just the next step, and it’s so effective.”

And what about the “apocalypse scenario”, where all three of us die at once? (Touch wood.) The online will process didn’t prompt me to consider this, and I didn’t think to ask. You don’t know what you don’t know.

That’s more than clear to me when I leave our meeting, wander out onto Melbourne’s Collins Street, check my phone while ambling blindly into busy traffic, and only narrowly avoid a passing truck.

There’s so much in life that you can’t see coming, that you could never predict, from the way we exist in the world to the forces that harden our hearts. People love to imagine that a bruising brawl would never happen to them, not in their family. Until it does. ■

* Names have been changed.