Separating “Gold Diggers” from “Eligible Persons” – the Case of Broadus v Cradduck [2025] NSWSC 402

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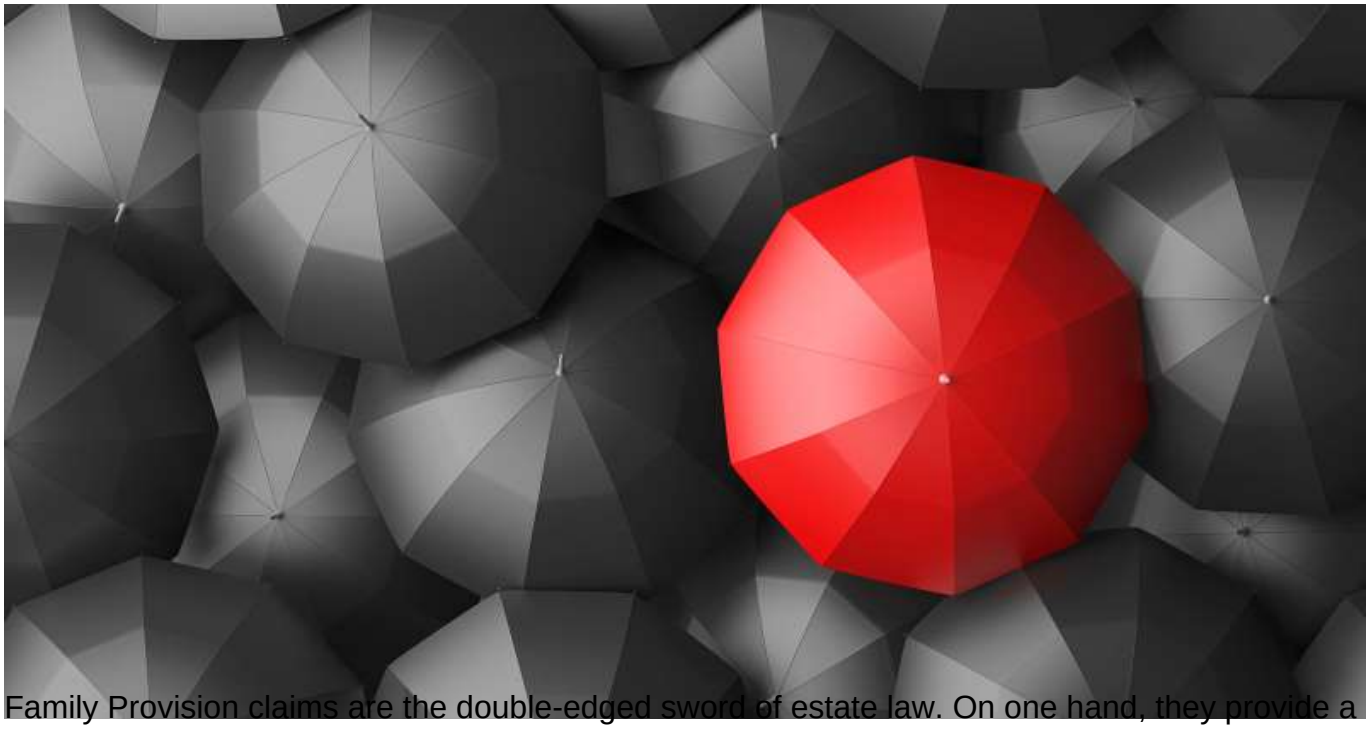

Family Provision claims are the double-edged sword of estate law. On one hand, they provide a valuable tool to ensure a deceased person’s loved ones are properly provided for while on the other, they provide a mechanism for people to claim more than their fair share and deplete the deceased’s estate in the process.

The case of *Broadus v Cradduck* [2025] NSWSC 402 (“***Broadus v Cradduck***”) provides a contemporary example of how the Court will interpret family provision claims made by adult grandchildren of a deceased person who was not provided for under the will admitted to probate. It also shows the Court’s capability to distinguish the two edges of the sword and come down hard on those attempting to wield the wrong edge.

Facts:

Walter John Cradduck (“**the Deceased**”) was born May 1936 and was “the epitome of a working class man from the western suburbs of Sydney.” When he was 21, he married Shirley Hughes with whom he had two children, Michael (father of the Calvin Broadus, the plaintiff) and Peter (“**the Defendant**”). Both Shirley and Michael predeceased the Deceased.

The Defendant lived with the Deceased his entire life, except for a six-month period in which he lived in America in 1985. The two lived at the family home owned by the Deceased. When the Defendant married a 2018, the Deceased welcomed her and her two children from a previous relationship into their home and together, the Deceased and the Defendant built a granny flat on the property to house the Defendant’s new family. While the Deceased was supportive of the

union, Calvin Broadus who is the Deceased's grandson and the Defendant's nephew ("**the Plaintiff**"), was not in favour of the marriage. He described the Defendant's wife as a "gold digger". His Honour, Justice Lindsay was not impressed with these words and stated that this assessment in the context of the Plaintiff's family provision claim was "a projection of himself, rather than a fair characterisation of her."

The Court acknowledged that the Plaintiff had experienced a difficult life both due to external circumstances and his own decisions. His mother abandoned the family when he was a young child leaving his alcoholic father and stepmother to raise him. In his youth he was the victim of sexual assault and suffered from mental health issues that resulted in him being placed in a psychiatric ward on multiple occasions. In 2002, he was involved in a car accident as a result of his own negligent driving, following which he was not able to work. In 2015 he was diagnosed with schizophrenia. He has been charged with multiple assault charges, one of which was on the Defendant at the family home which resulted in his subjection to an apprehended domestic violence order.

The Deceased's will gave the residuary estate valued at roughly $1 million to the Defendant. The Plaintiff originally claimed up to $900,000 in provision although over the course of the proceedings this came down to 20% of the value of the estate. The Court noted that if the Plaintiff's claim was successful, the Defendant would be forced to sell the family home or otherwise burden himself financially as he approaches retirement age.

Eligibility to make a family provision claim

"The fact that the plaintiff has experienced a hard life may be deserving of sympathy, but it cannot, of itself, justify the making of a family provision order…"

An order for family provision may be made when the Court is satisfied the applicant is an "eligible person" who has not received enough provision under the relevant will for their maintenance, education or advancement. Eligible persons are most commonly spouses or immediate family members, but grandchildren can also be eligible for provision where they were at some stage wholly or partly dependant on the deceased person. This is what the Plaintiff argued entitled him to provision from the Deceased's estate.

Was the Plaintiff "at any particular time, wholly or partly dependent"?

The Court found this was the real question for determination. It was the Plaintiff's case that he was dependant on the Deceased because:

1. He was a member of the family home, he claimed, from August 2003 to late 2015 or early 2016; and
2. He received financial assistance in the form of gifts from the Deceased.

Membership in the family home

It was not strictly necessary for the Plaintiff to establish he was a member of the household

given there was no doubt he was the grandchild of the Deceased but if established, it could prove he was dependant on the Deceased. The Court noted that a member of the household implies a degree of continuity and permanence in living at the household, and that reliance "on someone for accommodation may amount to dependence, but the mere fact of lodging in another's property without paying rent does not necessarily amount to dependence." The factfinding exercise undertaken by the Court showed that it was not the case that the Plaintiff had lived at the family home for over a decade, as he claimed. The Court found the Plaintiff was never a member of the household and the closest he came to that was when he lived at the house for roughly a month after being discharged from hospital.

Financial assistance from the Deceased

The Plaintiff listed a number of financial gifts the Deceased had allegedly provided him over the years including cash for cars, petrol, and groceries. While there was limited evidence of these gifts, the Court held that even if accepted, they did not amount to even partial dependency. Justice Lindsay found the extra requirement for grandchildren of deceased people to claim family provision is intended to be a gateway to prevent every grandchild from making a claim but "to be effective as a "gateway" …it must have some content" and the Plaintiff's evidence of minimal contributions from the Deceased did not reach the required threshold.

As such, the Court did not find that the Plaintiff was an "eligible person" entitled to make a family provision claim under the *Succession Act 2006* (NSW).

Factors warranting provision

Justice Lindsay dealt with further matters in the event that he had erred in finding the Plaintiff was not an eligible person. Were the Plaintiff found to be an eligible person, the Court would also have to be satisfied that the circumstances were such that he would generally be seen as someone that should have been the recipient under the Deceased's will. Things like the size of the estate and the circumstances of the will's beneficiaries are to be considered when determining if the express wishes of a testator are to be overturned.

Given the size of the estate was relatively small and that provision to the Plaintiff would impact the bounty of the Defendant, the Court determined the Deceased was under no obligation to make provision for the plaintiff.

Key Takeaways

Justice Lindsay's judgment for Broadus v Craddock has reinforced the following in relation to family provision claims being considered by the Supreme Court of New South Wales:

1. While the grandchild of a deceased person can qualify as an eligible person entitled to make a family provision claim, not all grandchildren will be eligible, and they must satisfy the Court that they were at least partly dependent on the deceased person.
2. Even where a grandchild does qualify as an eligible person, Courts are hesitant to overturn the express wishes of a deceased person with a valid will.

3. The size of the estate and other people entitled to the estate will be considered when a Court is determining if an eligible person should receive family provision.
4. Being dealt a tough hand in life is not in itself enough to convince the Court that you should be entitled to family provision.

Conclusion

The Judgment for Broadus v Craddock began with Justice Lindsay describing the hurdles the Plaintiff would have to overcome to be successful. His first hurdle was that the application was filed 13 weeks after the time allowed by the legislation for a family provision claim to be made. This serves as another reminder that if you are considering a claim or have to respond to one, it is important to contact qualified legal professionals promptly.

Read the decision here.

Matthews Folbigg Lawyers has a specialist team dedicated to Wills & Estate Planning. If you would like more information or advice in relation to drafting a will or the administration of a deceased estate, contact Mimi Su at mimis@matthewsfolbigg.com.au.