

## Article Information

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## Triple Homicide and the Forfeiture Rule

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*Estate of Raul Novosadek [2016] NSWSC 554*

*In a recent New South Wales case, the Court had to consider whether the “Forfeiture Rule” should be applied where a son was found not guilty of murdering his mother, his step father and his brother due to mental illness.*

**Partners Donna Benge and Rod Jones, and Associate Christina Flourentzou** discuss the case further.

The “Forfeiture Rule” is applied when an offender is found guilty of murder or manslaughter to ensure that the offender is prohibited from obtaining any benefit from their victim’s estate.

On 29 July 2012, the defendant, whose name was suppressed in the judgment, stabbed and killed his mother, Olga Novosadek (Olga), his step-father, Pablo Novosadek (Pablo) and his brother, Raul Novosadek (Raul). At the same time he also killed the family’s two dogs.

On 21 March 2014, by reason of mental illness, the defendant was found not guilty of murder on the basis that he had been suffering from paranoid schizophrenia at the time of the murders. The Court heard that during the defendant’s schizophrenic episode, he believed that Satan was entering his family and that caused him to stab his victims in an attempt to “kill Satan”. The Court also heard that the defendant had stabbed himself because he thought Satan was also entering his own body.

Olga, Pablo and Raul all died without a Will. It transpired that Olga and Pablo did not personally own property that could form their estate. On the other hand, Raul had two bank accounts totalling approximately \$390,000 at the date of his death, which needed to be administered for his beneficiaries.

As a result of Raul dying without a Will, his estate was to be divided in accordance with the New South Wales intestacy laws. This meant that the defendant and his two half-brothers, John Novosadek (John) and Hugo Novosadek (Hugo), were all entitled to an equal share in Raul’s estate.

However, pursuant to 11 of the *Forfeiture Act 1995* (NSW), John and Hugo made an application to the Supreme Court of New South Wales seeking an order that the defendant was not entitled to benefit from Raul’s estate because Raul’s death was a direct result of the defendant’s violent behaviour.

Justice Young carefully considered the matter and then posed the following question:

*“The present case is not one where it can be said that the Defendant was aware that what he was doing was wrong at the time he did the killings. However, one must look at the event not only through the eyes of the defendant, but also through the eyes of the public and ask whether the abhorrence of the killing of three family members...operates strongly against the person still being able to collect a financial benefit from his victim’s estate. The answer is that, it does.”*

His Honour concluded that justice required that an order be made that the *Forfeiture Rule* be applied and the defendant be denied any right to benefit from any of his victims’ estate.