



## Judgment Summary

Supreme Court  
Australian Capital Territory  
Court Of Appeal

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Tuesday, 31 March 2026

### Pastrello v Saeedi (No 2) [2026] ACTCA 10

McCallum CJ, Taylor J and Elkaim AJ

The Court of Appeal has unanimously dismissed an appeal contending that the testator of a will did not have the testamentary capacity to execute it. The testator, Lorenzo Pastrello, was the father of the two appellants and grandfather of the respondents.

The proceedings commenced in 2022 following the death of Lorenzo when Mr Saeedi (the executor of the will and first plaintiff) sought an order for probate in solemn form of Lorenzo's will dated 18 December 2020. The defendants (two of Lorenzo's children) filed a defence and counterclaim alleging that Lorenzo did not have testamentary capacity to execute the 2020 will nor knowledge or approval of the contents of the will. The defendants sought a grant of probate in respect of Lorenzo's 1988 will. Upon commencement of the proceedings, three of Lorenzo's grandchildren were added as plaintiffs. The key difference between the two wills was that the 1988 will left the whole of Lorenzo's estate to his three children, whereas the 2020 will divided the estate between his children and grandchildren.

In the original proceedings, the primary judge found in favour of the plaintiffs. The appellants appealed this decision on four grounds, each effectively challenging the testamentary capacity of the deceased when his 2020 will was executed and his knowledge and approval of the contents of the will. The appellants relied on the deceased's significant age and medical issues as reasons for incapacity. This was not accepted by the primary judge who found that each principal source of evidence supported the proposition that Lorenzo did have capacity. Furthermore, the primary judge found that the content of the 2020 will was consistent with the intention demonstrated by the deceased in the evidence.

The Court of Appeal unanimously agreed with the conclusions of the primary judge.

*This summary has been prepared for general information only. It is not intended to be a substitute for the judgment of the Court or to be used in any later consideration of the Court's judgment.*

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