

Probate and Succession Planning (2024)
Practice paper 1 for first contact session

Question 1

Peter Tan (aged 24) and his aunt Lucy Tan come to consult you on the administration of the estates of Peter's parents – the late Tan Kim Seng (aged 65) and the late Polly Chua (aged 67, also known as Chua Eng Neo).

Kim Seng and Polly were atheists and domiciled in Singapore. They were skiing in France and died in an avalanche. Their bodies were found together on 3 February 2018. Kim Seng and Polly were survived by their 3 children namely Peter (aged 24), Paul (aged 23) and Mary (aged 19) from their marriage.

Kim Seng was previously married and had two children from his previous marriage – a daughter, Maureen Tan (aged 28) who is an American citizen and a son, Mark Tan. Mark Tan died on 2 January 2017, survived by his spouse and a son Martin (aged 4).

Polly was also previously married and had one son from her previous marriage, Tony Wong who died in December 2017 at age 30. Tony was survived by his spouse and 2 children Trisha (aged 5) and Terrence (aged 3).

Kim Seng and Polly had the following assets at the time of their death:

S/No	Property Description	Kim Seng's	Polly's	Remarks
a.	Bungalow at 5 Chestnut Walk Singapore 234567	S\$8m		Joint tenancy Fully paid up
b.	Apartment in Johor Bahru, Malaysia	S\$500,000		Jointly held Fully paid up
c.	Semi-detached house at 31 King's Road Singapore 345678	S\$3.5m	NA	Outstanding mortgage of S\$350,000.00
d.	Apartment in Bond Street, London, England	NA	GBP1m	Personal Certificate of title in the name of Chua Eng Neo Polly
e.	OCBC fixed deposit account (Singapore)	S\$8m		Jointly held
f.	Standard Chartered current account (Singapore)	NA	S\$2m	Personal

S/No	Property Description	Kim Seng's	Polly's	Remarks
g.	Bank of Singapore (Singapore)	S\$10m	NA	Personal
h.	Car	BMW 5 Series S\$330K	Audi TT S\$210K	Personal
i.	CPF	S\$100K	S\$50K	Personal
j.	Shares in CDP account	S\$1.2m	S\$4m	Personal
k.	Credit card dues	S\$12K	S\$5K	

Peter produces Kim Seng's will dated 1 January 2010 which reads as follows:

LAST WILL AND TESTAMENT

I, Tan Kim Seng (NRIC S1296779/A) of 5 Chestnut Walk, Singapore 234567 hereby revoke all previous wills made by me and declare this to be my last will and testament ("my Will").

- 1 I appoint my wife Polly Chua (NRIC No S4574899/B), my son Peter Tan (NRIC No S5672998/B) and my sister Lucy Tan (NRIC No S2578330/D) to be the executors and trustees of my Will.
- 2 I give the sum of S\$20,000.00 free of interest, to the Atheist Society of Singapore and I declare that the receipt of the treasurer or secretary of such society shall be a sufficient discharge to my executors.
- 3 I give my property known as 31 King's Road, Singapore 345678 to my daughter Maureen Tan.
- 4 I appoint my sister the said Lucy Tan to be the guardian of my children in the event my wife the said Polly Chua dies during the minority of any of them.
- 5 Subject to the payment of my debts, funeral and testamentary expenses and estate duties if any, I give devise and bequeath all the rest of my movable and immovable property wheresoever situated to my wife the said Polly Chua and my children in equal shares as shall be living at my death.

6 I declare that my executors and trustees shall have power to convert into ready money all such parts of my estate as shall not consist of ready money with absolute power to postpone sale.

In witness whereof, I hereunto set my hand this 1 January 2010

Signed by the testator Tan Kim Seng
as his last Will and Testament in the
presence of us both present at the
same time who at his request and in
his presence and in the presence of
each other have hereunto subscribed
our names as witnesses

[SIGNED]

Signature of Tan Kim Seng

[SIGNED]

Signature of witness

Name: Jeffrey Toh
Advocate & solicitor,
Singapore

[SIGNED]

Signature of witness

Name: Sally Ho
Advocate & solicitor,
Singapore

Peter tells you that he recalls Polly having mentioned wanting to do a will but unlike Kim Seng who gave him his original will for safekeeping, Polly did not give Peter anything.

Peter also informs you that a week before coming to see you, he was contacted by one Sarah Chia (aged 32), who said she was Polly's daughter but was given up by Polly and Polly's first husband, for adoption. Sarah told Peter that she hopes to have a share of Polly's estate.

At the meeting, Lucy then tells you that she does not want to be an executor and trustee of her brother's will as she will be migrating to Australia in a month's time. Peter tells you that he has been so traumatised by the number of deaths in his family within the short space of 3 months that he does not feel able to act as an executor and trustee of his father's will.

- (a) Advise on what needs to be considered and the procedural steps to be taken in Kim Seng's estate for the application for a grant of representation, assuming that Peter was finally persuaded to act as the executor.
- (b) Advise how Kim Seng's estate and Polly's estate (assuming Polly died intestate) are to be administered and distributed.
- (c) How would Kim Seng's residuary estate be distributed if, in Kim Seng's will, clause 5 instead reads as follows:

“5. Subject to the payment of my debts, funeral and testamentary expenses and estate duties if any, I give devise and bequeath all the rest of my movable and immovable property wheresoever situated to my wife the said Polly Chua and my children Maureen, Mark, Peter, Paul and Mary in equal shares.”

- (d) Explain to Peter, who can apply for a grant of letters of administration in respect of Polly’s estate.
- (e) Explain to Peter, whether the court will require security to be provided before a grant of letters of administration will be issued in respect of Polly’s estate, and what can be done, if so.

Question 2

Mabel’s will appoints her friends Anna and Belle as her executors. The will contains a gift to Belle of S\$100,000 and leaves the rest of the estate to a charity. The two witnesses to the will are Mabel’s friends Catherine and Anna. Which one or more of the following statements is correct?

- a. The will is invalid as it was witnessed by an executor.
- b. The will is valid but the gift to Belle cannot take effect.
- c. The will is valid and the gift to Belle can take effect
- d. The will is valid but only Belle can be the executor

Question 3

Colin (28 years old) and David (26 years old) were killed in a car accident when their car hit a building and burst into flames. It was not possible to ascertain their respective times of death. In Colin’s will, he gave S\$200,000 to David and the rest to Colin’s parents. Colin is not married and is survived by his parents. Which one or more of the following statements is correct?

- a. The S\$200,000 will be given to David’s personal representatives.
- b. The S\$200,000 will be given to Colin’s parents as residuary estate.
- c. The gift to David fails because it cannot be proven that David survives Colin.
- d. The gift to David fails, the S\$200,000 will become Colin’s residuary estate.

Question 4

Lucy's only living relative is her sister Lorraine. Lucy's will states as follows:

- Her Audi car to be given to her sister Lorraine;
- Her diamond necklace be given to her secretary Sophia;
- The residue be given to her boyfriend Benjamin.

Lucy lived a long life and at the time of her death, her Audi car has been replaced a few times and lastly by a BMW. She has given her diamond necklace to a nurse who took care of her when she had COVID19. Her boyfriend Benjamin died before her. Which one or more of the following statements is wrong?

- a. The gifts of the Audi car and the diamond necklace fail as a result of ademption and Lorraine and Sophia will not receive their respective stated gifts.
- b. The gift to Benjamin fails as a result of the doctrine of lapse.
- c. All of Lucy's estate does not pass under her Will, but under the laws of intestacy to Lorraine.
- d. All of Lucy's estate will be regarded as residuary and received by the estate of Benjamin.

Question 5

What is the correct sequence for an application for Grant of Probate?

- A. File the originating summons, statement in Form 51, produce the original will and death certificate to the courts, file the supporting affidavit and administration oath, file the schedule of assets.
- B. Get the checklist from the courts, file the originating summons, statement in Form 51 and other documents according to the checklist, file the schedule of assets, file the Administration Oath and Affidavit.
- C. Conduct a search in the record of caveats and record of probate application, produce the original will and death certificate to the courts to obtain the checklist, file originating summons and statement in Form 51, file supporting affidavit and administration oath, file schedule of assets and supporting affidavit.
- D. Conduct a search in the record of caveats and record of probate application, file originating summons and statement in Form 51, file supporting affidavit and administration oath, produce the original will and death certificate to the courts to obtain the checklist, file schedule of assets and supporting affidavit.

Question 6

Andrew in his will appointed his wife Julie and his best friend Thomas as the executors. Andrew and Julie died at the same time in a fire attending a relative's wedding dinner. Thomas is an undischarged bankrupt. Who can apply for Grant of representation for Andrew's estate?

- A. The residuary legatee of Andrew's Will or the legal representative of that residuary legatee.
- B. The executor of Julie's will can apply, in accordance with section 25 of the Civil Law Act 1909.
- C. Thomas as the named executor of Andrew's will.
- D. The person who can apply is determined by the priority as set out in section 7 of the Intestate Succession Act 1967.