

UNDERSTANDING THE DEED OF ASSENT: TRANSFERRING LEGAL TITLE TO BENEFICIARIES UNDER A WILL

Introduction

A Deed of Assent is an instrument or legal document that comes into existence in furtherance of the devolution of title to real property to beneficiaries under a Will. It is important to state that a will in itself cannot confer title or ownership on a beneficiary, it only accords a named beneficiary an equitable interest¹ in the property gifted to him while a deed of assent accord a legal title or ownership to the property. A named beneficiary in a Will cannot assume legal title or ownership of any property gifted to him until a deed of assent has been executed in his favour.²

A deed of assent serves the purpose of conferring legal ownership of a gift in a Will on the named beneficiaries or a third party by Executors or Administrators of an estate. Where a deed of assent has been duly executed in favour of the beneficiaries, a third party cannot subsequently lay claims to the properties that have been duly passed on to the intended beneficiaries.

Section 40 of the Administration of Estate Law of Lagos State provides for the effect of assent by the personal representative. It states that *“a personal representative may assent to the vesting in any person who either by devise, bequest, devolution, appropriation or otherwise, may be entitled to, either beneficiary or as a trustee or personal representative, of any estate or interest in real estate to which the testator or interstate was entitled or over which he exercised a general power of appointment by his will and which devolved upon the personal representative”*.

Conditions for a Valid Assent³

1. An assent to the vesting of a legal estate shall be in writing
2. It shall be signed by the personal representative
3. It shall name the person in whose favour it is given
4. It shall operate to vest in that person the legal estate to which it relates
5. An assent not in writing or not in favour of a named person shall not be effectual to pass a legal estate.

Checklist of the requirements for its registration. These requirements are:

- i. An application letter addressed to the Registrar of Titles requesting to register a deed of assent with a functional phone number and email address.
- ii. Two copies of the Deed of Assent/ Vesting Deed.
- iii. Deed must be dated, signed and each page initialed.
- iv. Passport photographs of all the administrators/executors to be attached to the deed.
- v. The front cover of the deed must be signed and sealed by the solicitor who prepared the deed.
- vi. Spiral/bookbinding.
- vii. A certified true copy of the root of title.
- viii. A certified true copy of the letter of administration/ Will.

¹ Iwobi V. Igwemba & Anor (2015) LPELR-40693(CA).

² Unoka v. Agili (2007) 11 NWLR (Pt. 1044) 122 (CA)

³ Section 40(4) Administration of Estate Law of Lagos State

- ix. A sworn affidavit deposed to by the administrators/executors attesting to the vesting.
- x. Original for sighting and one copy of the valid means of identification of all the administrators/executors.
- xi. Payment receipt.

Conclusion

A Deed of Assent is so important in the devolution of the estate of the deceased. The title in a property cannot pass to the intended named beneficiary or any third party without a duly executed deed of assent, which must be signed by the Executors or Administrators to the Will. And as earlier stated, once it has fulfilled the conditions highlighted above, a third party cannot lay claims to the properties of the deceased already passed on to the beneficiaries.

Roothe-Kharis is a team of lawyers well versed in drafting legal contracts, wills and codicils. Do not hesitate to contact us if you have any question or require further clarifications on this article. We are available to provide the support you need in navigating and distilling the fine prints of a testamentary document.