



## WILLS

(A. O. Ashiru)

***If anyone does not provide for his relatives, and especially his family, he has denied the faith and is worse than an unbeliever***

- 1 Timothy 5: 8

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A *Will* is simply the intentions and wishes of a person wherein he determines what happens to his properties after his death. It is a legal document in which you declare who will manage your estate after you die as well stay in control of who gets your properties after your death.

It is a testamentary document made voluntarily and executed by a testator with a sound mind wherein the testator disposes of his property in accordance with the *Wills Law* and gives other directives as he may deem fit.

### WHY YOU SHOULD MAKE A WILL

The Holy Bible says two very important things that you should know:

- Ecclesiastes 3:1-3- *"There is a time and season for every activity under heaven. A time to be born and a time to die"*
- 1<sup>st</sup> Timothy 5:8- *"If anyone does not provide for his relatives, and especially his family, he has denied the faith and is worse than an unbeliever"*

It is in the light of the above passages that I consider it necessary for everyone to make a will. It is undeniable that death is a debt every Man owes and would pay someday. Should

your family be left uncatered for and in a state of confusion after death? It is evident from the above passages that the Bible considers such a situation as shameful and condemns it in strong terms (1<sup>st</sup> Timothy 5: 8). Making a *Will* is the best way to 'put your house in order' before you die. You need to make a *Will* so that you can look out for the interests of your family and relatives even after you are no more. Putting your wishes on paper helps your heirs avoid disputes over inheritance and your wishes. It also ensures your peace of mind knowing that a life's worth of possessions will end up in the right hands.

### WHAT TO NOTE WHEN MAKING A WILL

To make a valid *Will*, the first thing you must know is that at the time of making the will, you must have full testamentary capacity. You must be in sound mind, know the effect of what you are doing and understand the extent of the property you are giving out to whom as well as all the claims that may be made on the said property or gifts for it to take effect.

You must also know, appreciate and recollect the persons who are your beneficiaries as at the time you are making your *Will*.

A *Will* would be invalid if it is made under duress, influence or pressure. If a wife puts undue influence on her husband and he gives all his property to her, such a *Will* may be

declared invalid. So also would a *Will* made under suspicious circumstances or by mistake, fraud or misrepresentation, be declared invalid.

## THE REQUIREMENTS FOR A VALID WILL

The following must be observed for a *Will* to be valid:

- ✓ The *Will* must be in writing-whether typed, printed or hand written or any combination of these. A *Will* must necessarily be written down.
- ✓ The *Will* must be signed by the testator-it may be an initial, a cross, a rubber stamp or even a full signature but it must be the usual and complete signature of the testator. It is also preferable that the signature be made at the foot of the *Will*. However, if it is signed on any other part of the *Will*, it may still be acceptable.
- ✓ The signature of the testator must be attested by two witnesses at the time the testator signs and the two witnesses must also attest to witnessing the signature by writing or signing to that effect. You must however note that a witness whether a spouse or relative cannot benefit from any gift made in the *Will*. In other words, if you want to give a person a gift in your *Will*, do not make him a witness to your *Will*.
- ✓ It is also advisable to appoint at least two executors in your *Will*. The executors should be people you can trust to administer your estate according to your wishes. The executors should be people who are younger than you and reasonably expected to outlive you.

One of the most important things your *Will* can do is empower your executor to pay your bills and deal with debt collectors. Make sure the wording of your *Will* allows for this, and also gives your executor leeway to take care of any related issues that aren't specifically outlined in your *Will*.

Gifts may be made to the executors in a *Will* and such gifts will be valid. You can appoint your spouse, an adult child or another trusted friend or relative as your executor. If your affairs are complicated, it might make more sense to appoint an attorney or someone with legal and financial expertise. You can also appoint joint executors, such as your spouse or partner and your attorney.

## CAN YOU UPDATE YOUR WILL?

It is possible that after preparing your *Will*, you acquire new properties and want to make specific bequeaths or want to revoke some gifts you earlier made. You can update your *Will* by making a codicil. A codicil is a *supplementary Will* by which a testator adds to, alters or revokes what is contained in a *Will*. You must note that when making a codicil, the requirement of the testamentary capacity of the testator is important.

## DO I NEED A LAWYER TO MAKE A WILL?

A *Will* may be made by a testator himself. It is, however, advisable that you engage the services of a legal practitioner who possesses the requisite knowledge to prepare your *Will*. This is because of the technicalities involved and to avoid the possibility of invalidation.

## WHERE SHOULD I KEEP MY WILL?

The original copy of the will should be kept in the probate division of the High Court of the state where the testator or his family resides. At the probate division, it would be sealed and kept safe until such a time as it is requested. Your attorney or someone you trust should also keep signed copies in case the original copy is inaccessible.

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