

UNDERSTANDING THE NEED FOR MAKING WILLS

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INTRODUCTION

Chief Adegoye is a wealthy industrialist. He has been in business since the early 1900's and has amassed a lot of wealth in his lifetime. He is married to two wives and has thirteen children. The entire family is living well and there is peace.

Without any notice, Chief Adegoye died on the 13th day of October, 2020 of a heart attack and his family is in disarray. All of a sudden, there is no peace and harmony in the family as everyone is confused as to who gets what after the Chief's death. The first wife and her children are claiming that the other wife and her children are not members of the family. There is chaos!

DO YOU NEED A WILL AND LAST TESTAMENT?

As humans, our own mortality is always difficult to accept. In our early years, we think that it will never happen. It's too far off to even consider. In our middle years we know how close the end might be and then we refuse to acknowledge it; and therefore ignore the dire circumstances this ignorance may cause.

But no matter what our age, the end could be right around the corner and if we don't prepare our survivors for our own demise, no one else will. It is a process that needs to be dealt with at all costs.

Thinking that only the wealthy should have a last will and testament is a common misconception. Anyone who owns anything – a watch, furniture, a car, or even a small savings account – should have the right to decide what happens to it upon his death. For those with under age children, a last will and testament is especially important. In some states, children can become wards of the state without the proper direction in the form of a will.

WHAT IS A WILL?

A Will is simply the intentions and wishes of a person to be carried out after his death. It is not mere piece of paper but a creation of law, backed up by Statutes that provide for the relevant laws governing the document. It is a sum of the wishes of the Testator to be carried out after his death.

TYPES OF WILL

There are two major kinds of Wills: The Nuncupative Will and the Written Will.

The Nuncupative Will is also known as oral Will. A nuncupative will is an oral will, declared by testator before witnesses as his disposition of his property, and afterwards reduced to writing. As a rule, personal property alone, and that only to a limited amount, can be disposed of by a nuncupative will.

Two major categories of people are allowed to make nuncupative Wills:

- Persons in their last sickness, or persons overtaken by sudden illness, and who have no time to make a written will, and would otherwise die intestate.
- Soldiers in actual service and mariners at sea.

The modern trend of the law though, is to confine the exceptions to

only the second category.

In making a Nuncupative Will, there must be at least three witnesses and it is usually enforced by the Elders of the community, in line with the customs and traditions of the Testator.

The Written Will is the written down intention of the Testator that bears the intention of the testator to be carried out after his death. This Will is the most common and widely accepted world over.

BENEFITS OF MAKING A WILL

- Where there is a Will, it helps to avoid the problems of intestacy. Where no Will is present, the general rules of intestacy will govern the disposal of the estate and even persons whom the deceased did not intend to make provisions for may end up benefitting from the deceased's property.
- Having a Will gives you the choice of appointing persons whom you trust as your personal representatives or executors to handle your affairs on your behalf after demise.
- It also gives the Testator the opportunity to appoint guardians for his children.
- The Testator is able to make specific provisions or gifts for his beneficiaries under his Will.
- It gives the Testator peace of mind because he has wound up his affairs and there is a strong belief that his wishes will be carried out after he is gone.

WHEN SHOULD YOU MAKE A WILL?

As earlier stated, you do not have to wait till you feel you are very wealthy before making a Will. For anyone over the age of 18, a last will and testament is a must. Once you are no longer the responsibility of your parents, you are responsible for your own money and possessions. And you have the right, and the obligation, to manage the process to alleviate further grief and confusion at your passing.

So, the minute you have anything you believe is worth giving to a particular person upon your passing, you should make a Will.

WHO HELPS YOU IN MAKING A WILL?

There is no restriction on persons writing their own Will themselves, so long as the document can properly convey the intentions of the Testator to be carried out upon his demise.

It is however advised that the services of a Legal Practitioner should be employed in making a Will. This is because of some technicalities that may be involved in the writing, putting the intention across and lodging the Will with the appropriate authorities when same is finished to lend it more credibility.

CONCLUSION

It is advisable that every adult above the age of 18 should have a Will so that your mind can be at peace after demise. Let us not be like Chief Adegoye whose family became a warzone after his death. Draw up your Will today!