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MAKING A VALID WILL IN TANZANIA

SUCCESSION AND ESTATE PLANNING LAW





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Introduction

THE MAKING OF VALID A WILL

All of us would wish to live forever, sadly though we do not and for this very reason the law in anticipation of death provides for the making of a will as a way of devolving property rights upon the death of the maker of the Will a concept known as Estate planning being part of an area of law called Succession.

Meaning of a Will

A Will is a statement, which is voluntarily made by a person during his lifetime to explain his intention on how his property shall be distributed upon his death.

A Will can be of two types: *An oral Will and a written Will.*

An oral will is a type of a will where the wishes of the testator (the maker of the will) are not in a written form, the testator only express his wishes verbally to the present witnesses on how his properties shall be distributed upon his/her death.

While in a **written will** the testator wishes are put in a written form signed by him/her and witnesses who know how to read and write and who saw the testator affix his signature on the document.

Who then can draw a Will?

Family feuds are becoming too common over property of deceased persons, and it has come to light that this is so in the event that the deceased dies intestate; that is without leaving a will behind.

A will can be drawn by the testator themselves or by an advocate acting for the testator. It is advisable and proper that an advocate does the drafting of a Will because being a legal document there are many legal considerations to be factored in drawing a valid will that is capable of being executed by the Estate of the deceased testator.

Timing of the Making of a Valid Will

A testator can only make a Will when at the time of making the Will they are alive, of sound mind and are of majority age. Therefore, to be able to make a valid Will one must not have been disqualified by any law or the procedural rules governing the making of Wills in Tanzania generally.

Custody of a Valid Will

Once a Will is drawn the other important consideration is that of custody which responds to the question as to who may keep a Will for another?

A will may reasonably be safely kept by an Advocate, at the High Court Registry or at Registration Insolvency and Trusteeship Agency (RITA) by paying a reasonable sum at regular intervals for such safe keeping of the Will until such a time that the Will is needed by the testator or his successors in title.

This matter is custody is important because it helps the testator not create conflicts among siblings over who has been bequeathed what percentage of the estate and whoever feels that they were only bequeathed the shorter end of the stick.

Importance of Making a Will

Generally, your Will tells everyone what should happen to your money, possessions, and property (your estate) after you are not around. If you don't leave a will, the law will decide how your estate is passed on, something which may not be in line with your wishes. A properly executed will allows you to specify exactly how you would like your estate handled upon your death, including how and to whom the property should be delivered, who should watch over your minor children (if any), and who should manage the administration of your estate. A will makes it much easier for your family or friends to sort everything out upon your demise, without a will the process can be more time consuming and stressful.

A will helps avoid conflicts among kith and kin over property shares upon the death of the owner of the said property. A will therefore promotes peaceful co-existence even after the death of the property owner.

Anthony Horowitz is quoted saying that,

“The unsigned will is one of those tropes of detective fiction that I've come to dislike, only because it's so overused. In real life, a lot of people don't even bother to make a will but then we've all managed to persuade ourselves that we're going to live forever. They certainly don't go round the place threatening to change it in order to give someone the perfect excuse to come and kill them. It looked as if Alan Conway had done exactly that.”

Conclusion.

It is wisdom by anyone to draw their Will in good time as and when they are still in perfect control of things and it is even wiser to engage a counsel to do it for you when you are alive and kicking.

This allows one to exercise free will in distributing their Estate to designated successors.



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