



Outflow of Wealth

Upon Demise

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Do You Know Your Wealth Can Flow Out Of Your Family If You Passed On Simultaneously With Your Spouse?



Are you worried your assets will flow out of your family after your demise? As a result, leaving nothing for your family. This is a bold statement to make. However, are you aware that this might be the case, and there are many potential conflicts and implications?

If you have watched various serial TV dramas, often you will see family members or in-laws fighting over the patriarch's or matriarch's assets. However, it is often the case for the former.

We are told not to believe everything we see in TV dramas and take it only for entertainment. To a certain extent, these stories often reflect the issues in our society, and there are similarities that we can relate to.

This article will give you an idea of when exactly a scenario like this will happen and if there are solutions to minimize or prevent this.

Assets Belong To Your Close Family Members

We would rather keep our wealth to ourselves or with our family members or closest friends. Seldom would anyone want to distribute their hard-earned monies to unknown people unless it is perhaps for charity usage. Keeping your wealth for your closest ones stems from the psychological belief that this wealth generation should benefit your bloodline such that the next generation can preserve the family's legacy and be better off financially.

How Is Your Wealth Passed Down Through The Generation?

I will briefly discuss how you can pass your wealth to the next generation.

#01 ——— *Primogeniture*

– preference in the inheritance given by law, custom, or usage to the eldest son and his children. In exceptional cases, primogeniture may prescribe such preferential inheritance to the line of the eldest daughter. The motivation for such a practice has usually been to keep the estate of the deceased, or some part of it, whole and intact.

#02 ——— *Ultimogeniture*

– similar to primogeniture, except that the inheritance is given to the youngest son.

#03 ——— *Muslim Law*

– prescribed how the deceased's estate should be distributed under the Faraid. The males will usually receive more than their female counterparts.

#04 ——— *Partible inheritance*

a system of inheritance in which property is apportioned among heirs. You will assign the specified percentage to your beneficiaries of choice.

For the first three methods, people may find the distribution method unfair and often gender biased. It does not consider the financial decision-making ability, spendthriftness, filial piety, or experience of the person who inherited the wealth, amongst many other factors.

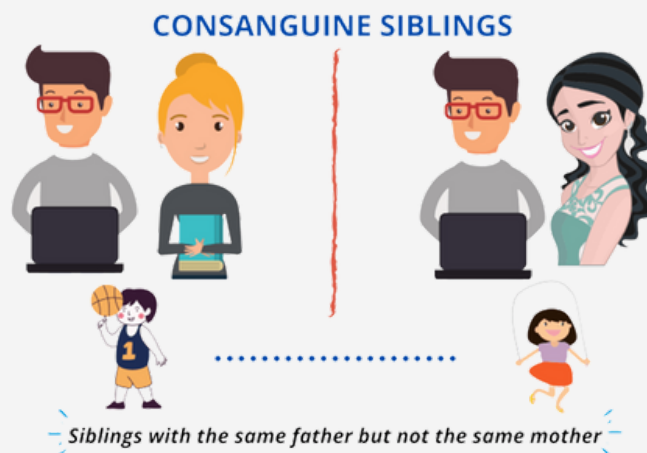
Partible inheritance could be seen as a more probable solution as you can distribute assets to the intended beneficiaries. Having said the above, you must keep in mind that there is no best way or right or wrong way. To a greater or lesser extent, these distribution methods have worked well or badly from the past till now.

Ways For Your Wealth To Flow Out Of Your Family

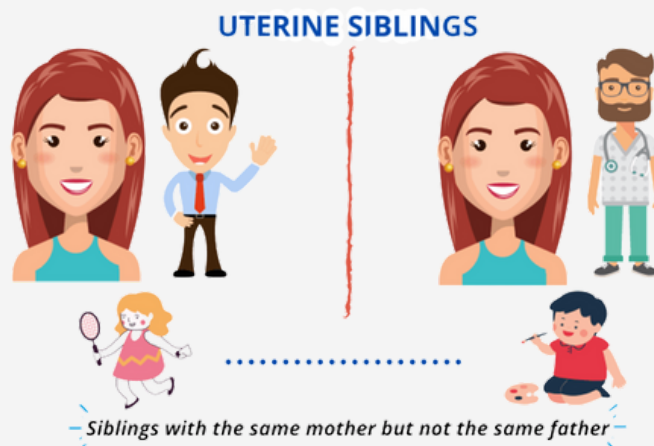
Let us look at two ways how this can happen if you have not written your Will:

#01 Multiple Divorces

Due to the evolving family dynamic nowadays, people must consider this. An example will be someone that has divorced and have children. As a result, children will have siblings from different parents.



Consanguine siblings are siblings with the same father but not the same mother, while uterine siblings are siblings with the same mother but not the same father.

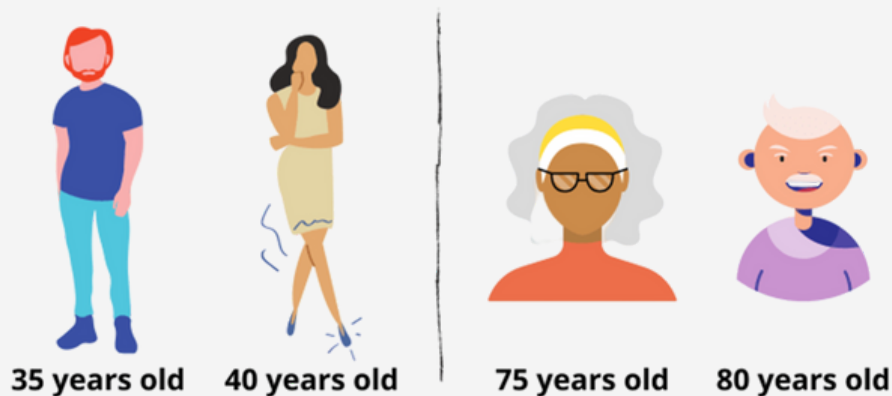


The wealth can potentially flow into the pocket of your ex-spouse's family. Even though the person can be with a different partner, he/she can still pass the assets to the biological child(ren).

Common Disaster #02

Consider the below two scenarios. We have two pairs of couples. In an accident like an air crash where both husband and wife perish simultaneously, who do you think is deemed to pass on first? Do we consider it based on gender (male or female) or age (younger or older)? Please take a minute to think about it.

Gender or Age?



Some people have very creative answers. Another example could be that both perish together when there is an explosion, and everyone gets vaporized simultaneously.

Point of clarification, common disaster does not necessarily involve travelling in a plane. It can be transportation like boats, motor vehicles, natural disasters, etc. The risks are all around us.

As you can see, there could be so many interpretations. Hence, we need a more definitive answer to dismiss all ambiguities.

Thus, we can look to Chapter 43 of the Singapore Civil Law Act, under Section 30, for answer.

What Is The Presumption Of Survivorship Regarding Claim To Property?



Chapter 43 of the Civil Law Act, section 30 states that:

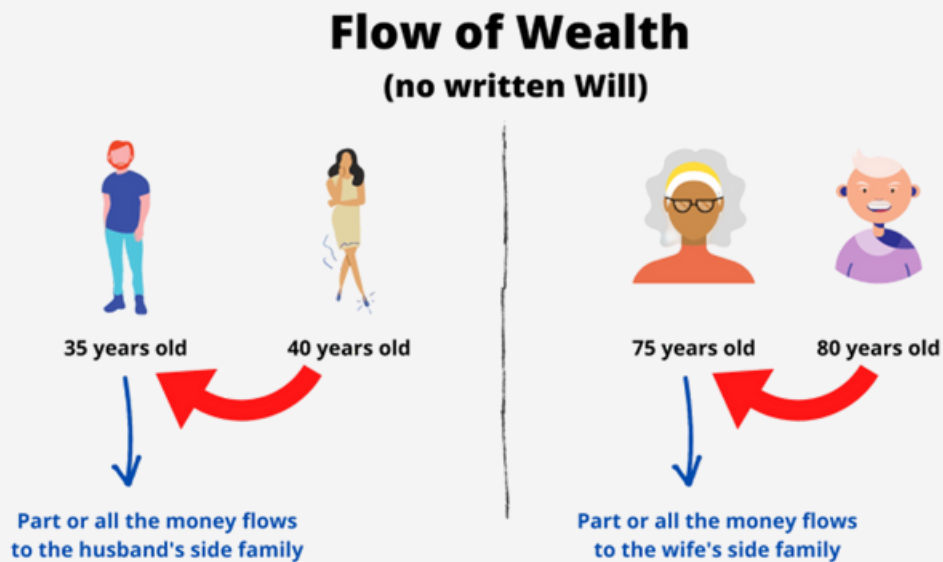
"In all cases where 2 or more persons die in circumstances rendering it uncertain which of them survived the other or others, such deaths shall (subject to any order of the court) for all purposes affecting the title to property be presumed to have occurred in order of seniority and accordingly the younger shall be deemed to have survived the elder"

Implications Of The Civil Law Act Section 30

Simply put, the older person is deemed pre-deceased the younger spouse.

The wealth you have intended for specific purposes or usage could be mismanaged or taken away from your estate. You might or might not want to give specific gifts to individuals. The monies which otherwise could have been utilized for a particular cause, like setting up trusts for charity and your beneficiaries, might not materialize.

The flow of wealth can be illustrated in the diagram below.



What Can You Do To Safeguard Your Interests?

The simple answer is to get a Will written. However, having a Will does not eliminate the issues you read about earlier. There are specific clauses you will need to include in your Will. Therefore, it is good that you review your Will now and then. In my opinion, this is the most crucial document after your demise. So, could you not take it for granted?

I am going to introduce this new term called "Commorientes". According to the Collins English dictionary definition, Commorientes is defined as:

"People whose deaths are so close to each other (being caused by the same calamity) that it is not possible to determine who died first. It is assumed that the elderly person died first"

This concept is not new, as you came across earlier in this article.

In your Will, locate if you have a Commorientes or survivorship clause.

Commorientes Or Survivorship Clause In A Will

function

1

This clause helps to prevent assets from passing into the estate of the other deceased individual, only to be immediately distributed out. Such a clause provides that beneficiaries will inherit property only if they survive the Testator for a specified period (typically 30 days).

limitations

1

Note that "30 days" is stated as an illustration. It is for a reasonable time gap, with no prescribed rule or standard.

2

This gap can range from a few days to months. Some examples are "7 days", "31 days", "75 days", or "2 months". The period stated is arbitrary, as it is impossible to predict one's death.

3

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4

But note that there could be a complication if someone goes missing and cannot be found. The standard protocol is to declare a person dead after 7 years after the disappearance.

Case Study of Commorientes Or Survivorship Clause In A Will

Case Study

#01

"I, John, give all my properties in Singapore to my wife Nancy absolutely, but if she does not survive me by 30 days, I give my assets to my son Peter absolutely."

In this example, Nancy does not inherit the estate unless she survives John by 30 days.

Case Study

#02

John and Nancy were travelling on a plane when it exploded mid-air, and all the passengers died simultaneously (where it is impossible to tell who died first), then Nancy is deemed not to have survived John by 30 days, and the gift to her will lapse.

Their son, Peter (if he is alive), would inherit the whole of his father's (John) assets.

Conclusion

From this article, I hope you have learnt something new and understand that there is a process to determine the death sequence in a common disaster. This is most relevant for a married couple. As people are more mobile and love to travel overseas for work and holidays nowadays, there is a "what if" question that you have to ask yourself. What if a common disaster happens?

Husband and wife travel overseas together for honeymoon and leisure trips. Sometimes, we would bring our family or extended family along. If you have kids, bringing them along is a possibility. We can minimize this risk by going at different timing and day or taking a different mode of transport. However, we know that it can be impractical. To ensure peace of mind, you should review and update our Will if necessary. We do not want to leave it to chance.



ABOUT THE AUTHOR

Bruce Lam is a licensed financial practitioner and currently serves as IFPAS Assistant Secretary and Assistant Treasurer. He graduated with a degree in Banking & Finance and holds STEP Affiliate, AEPP®, CLU®/S, ChFC®/S, AFC, IBFA, SAMP™ and CSM® designations.

Note

1. <https://www.straitstimes.com/singapore/bodies-of-three-johor-car-crash-victims-cremated>
2. <https://www.straitstimes.com/singapore/saf-scholar-among-dead-in-us-car-crash>

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