

Conflicts over inheritance is becoming a growing problem

By Gary Calligas

Family members tend to join in thoughts and prayers when their aging loved one is terminally ill or injured, or recuperating from intensive surgery. The power of prayer and also the advances in medical science and treatments are truly amazing. Miracles do happen everyday as well as remarkable outcomes based upon highly professional medical personnel. However, there comes a time when we get very sad when the situation gets very critical with the eventual passing of our aging loved one or one who was very ill or injured. We console our family and friends, by pronouncing that he/she is now at peace and resting in a better place. These times are to grieve but also to share the remarkable memories and stories of the one that has died, so that their memory may be everlasting. Then, those designated or volunteered family members of the deceased begin the stressful task of the funeral arrangements and the coordination and plans for the many relatives and friends who will come to honor their deceased loved one.. The funeral or as some call it “the celebration of life” occurs and passes. A few days or weeks afterwards, there begins the dramatic start of the inheritance process of the deceased, but hopefully with little or no conflicts amongst the heirs and family members.

Sadly, according to recent reports from lawyers and financial advisers, the number of conflicts over inheritance of a deceased in the past years have increased dramatically between the heirs and family members. These conflicts put a stress on all of the heirs and family members.

In prior years, probate of an estate of a deceased family member was a generally routine matter with very few conflicts and problems. Accordingly to recent findings, after the deceased member’s will is presented, lawyers almost always anticipate some controversy and conflicts amongst heirs and family members. Some experts state that the reasons for such inheritance battles is due to the slow economy which tend to make families more likely to fight over money, properties, and valuables. In addition, as aging parent(s) or family members are being taken care of by their adult children or relatives, those care-giving adult children or relatives feel that they are more deserving in getting a portion of the inheritance of their deceased family member, than the other siblings or family members who did not help at all or very little in care-giving responsibilities. These care-givers often are resentful when they are not awarded additional portion of the deceased member’s estate. Another factor causing conflicts is the rise of what is called “blended families”, where the deceased person might have re-married one or several times with children from other spouses wanting to be included as heirs. These “blended children” most often challenge inheritance plans, especially when the wills are written in very vague and non specific manner.

Decisions about a loved one distributing of both movable and immovable property important after their death is extremely important for the future of the family relations. Often a mature adult will tell the family members, “Just divide my personal belongings evenly with among my children after my death”. With a widow or widower, this method would seem like the less complicated way to distribute items after a person’s death, and many persons use this manner of distribution without a detailed will or written instructions. However, families and inheritance

have problems with the “who gets what” which can enhance or destroy a family after the death of a loved one.

There are many challenges unique to the distribution of movable property, like the family bible, china, silver-wear, coins, paintings, etc. First, there are the sentimental meanings of these items which makes it an emotional decision on who gets what. Some objects help preserve the memories and family history, so passing these to family members who appreciate their meaning is a critical decision, especially if one wants to continue the family legacy.

Some items have more value and meaning to other family members and these feelings should be shared with the adult member of the family. It is almost impossible to divide estate items equally among the heirs due to this complex evaluation process.

When heirs discuss the movable items to be distributed among the heirs in an inheritance, there may exist conflicts due to motives of certain heirs, and sadly family secrets might be disclosed while discussing how mom or dad or that relative obtain these items.

Though it is more appropriate to discuss the passing of movable items of a deceased before a person dies, this seldom happens. Most of the time, the elderly adult generates a will which includes bequests of items to certain individuals or organizations. However, it is amazing how many individuals die these days without any will or with a vaguely written will or even invalid or easily contested will.

If these givers either give the items now or in the future, their decisions may be surprised, dismayed or hurt by responses of family members. However, breaking the silence with the loved one and family members about this situation should be done sooner than later. Most givers say “They just want to be fair in giving their things to their family members”.

Without specific guidance from the loved one, their children and family members often have the most difficult time in dividing the movable and non movable items of a deceased person’s estate which were not specifically mentioned in the will. What generally happens is that the family gets together to discuss the transfer methods. Family members often determine that the best way is to transfer items equally by treating everyone the same, so that the number of items, their value, and even purchase opportunity are available to all. The next method is the variable transfer, where family members needs, contributions, and personal characteristics are taken into account. This is the most difficult method of transfer, but probably the fairest of all.

The way to reduce or avoid inheritance problems is to consider giving away items to family, friends, and organizations before you die. Otherwise, it is important to make sure that you hire an attorney to prepare your will and other documents to allow for the distribution of both movable and non-movable property and items as you would want it to be done.

The deceased just wants the family members to celebrate that person’s life and wants to provide some continuity of family history and legacy for their future generations. As an attorney

conveyed to me about his dealing with family members, “You never really know a family member until you are involved in an inheritance proceeding.”

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