

WILLS AND ESTATES

THE FAMILY AGREEMENT

A modern financial issue is created by the generosity of parents who assist their children during their lifetime, but fail to document “ the family agreement.”

There are a significant number of generous parents who purchase properties for their adult children.

The agreement varies from the parents legally owning the house, to the house being placed in the child’s name absolutely. The matter is further complicated if the house is placed in the name of the adult child and his or her partner. These good intentions can result in family warfare.

Who does own the house? Is there any money owing to the parents? What promises have been made? What does the Will say?

In these situations the child often refers to the house, which is in their parents’ name, as “my house”. The parents may have a different interpretation of the arrangement and see the house as their house simply occupied by the child. You can see how there is confusion. In the event that the parents die, there is only one side of the story.

If the house is in the name of the child it is not a part of the estate of the deceased parent; if the house is in the name of the parent, then it is a part of the estate of the deceased parent and controlled by the Will. I am sure you can now see the problem evolving.

Peter and Carol had been living in a house they regarded as “their house”.

However, it was formally owned by Peter’s father who had purchased the house by

advancing the deposit and borrowing the balance in his name. Peter and Carol couldn't get a loan but they made all the mortgage payments. It had always been the understanding that the house was really the property of Peter and Carol. They had been encouraged by the father to improve the property; put an addition on the back of the house; fix the electrical wiring; replace the gutters; improve the gardens and paint the exterior.

What everyone failed to do was set out in writing what the agreement was and amend the Will.

Peter's father died unexpectedly. The family feud began.

Peter's brothers and sisters were not really interested in hearing Peter's interpretation of what the arrangement was in relation to the house. They adopted the rigid position that the house was owned by their father and formed a part of his estate to be distributed in accordance with his will. The Will of Peter's father simply said, "*I give the whole of my estate to be divided equally between my children.*" (He had meant to fix that up given the agreement he had with Peter.) Peter and Carol claimed the house but there was little to support their claim.

The moral of this story is to document what it is you intend when providing financial assistance to your children. What is clear now may not be clear to your estate after you have passed on.

Clear documentation of family arrangements and intentions will remove argument and discontent after you have passed on.