



By Letitia Watson
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answered in this column
as far as possible but
not personally.

Settling your will

Get to grips with potential snags in making sure your money goes to the right people after your death

FRANCOIS is in a quandary about his will. He wants to know if his retirement annuity (RA), which is now worth R650 000, can be divided between his two adult children in equal shares. He also wants to ensure his wife inherits his house that's worth R1 million and will receive the proceeds of his R2-million life insurance policy.

He still owes R500 000 on the house and his children are presently the beneficiaries of the life insurance policy. He also wants to know what will happen if he doesn't appoint an executor in his will.

Your Money asked Louis van Vuren* of the Fiduciary Institute of South Africa (Fisa) for advice.

RAs and wills

Francois' children won't automatically inherit the proceeds of the RA when he dies, even if he stipulates in his will that they should inherit these proceeds. This is because the Pension Funds Act stipulates that an executor doesn't administer RAs as part of a deceased estate.

The trustees of the RA fund will decide how to divide the proceeds among dependants and beneficiaries. Dependants are those for whose maintenance the deceased is liable (or would have been liable had he not died) and everyone who was in fact dependent on him for maintenance, such as his wife, minor children or his mother-in-law had she lived with them.

If Francois wants his children



KOBUS GALLOWAY

to benefit from the proceeds of the RA he must nominate them as beneficiaries of the RA policy by instructing the insurer in writing. But he must also keep in mind the trustees can decide to divide the proceeds among his children and his wife.

Life insurance policy

His children are already the beneficiaries under the life insurance policy. Unless this is changed the insurer will in the event of his death pay the proceeds directly to them as the nomination of beneficiaries is an agreement between the policyholder (Francois) and the insurer.

If he wants to ensure the proceeds go to his wife he will, as in the case of the RA, have to in-

struct the insurer in writing to change the beneficiaries. Stipulating this in his will only won't suffice as in general the executor will have no grounds on which to claim the proceeds from the insurer.

House and bond

If he wishes Francois can leave the house to his wife but Van Vuren says the liabilities (such as the R500 000 owing on the bond and other costs) will first have to be paid from the estate. Unless Francois has other assets he hasn't mentioned there will be a cash shortfall in the estate if the proceeds from the life policy goes to his children.

Although the house is worth R1 million it's not a cash asset.

TIP
Ensure that there is enough cash in your estate to avoid a liquidity shortage.

Other expenses such as the executor's fees must also be paid from the estate, making it an estate liability. The

Administration of Estates Act limits this fee to 3,5 per cent of the gross value of the estate but if you add 14 per cent VAT the fee increases to 3,99 per cent of the estate's gross value.

Executors are entitled to sell assets in order to pay estate liabilities if there's insufficient cash in the estate or the heirs refuse to pay or take over these liabilities voluntarily.

This means Francois' wife will either have to contribute money to settle the bond debt or the executor will have to sell the house to pay off the estate liabilities.

If Francois were to cancel the children as beneficiaries on the life policy the proceeds will be paid to the estate and can be used to settle estate liabilities.

Any balance left over after the estate liabilities have been settled falls into the residue of the estate and goes to his wife.

No executor

Under the Administration of Estates Act if you don't appoint an executor in your will the master of the high court will appoint one after your death. The master can consult with Francois' wife or any other heirs and the creditors about who to appoint but isn't obliged to do so. ■

* LOUIS VAN VUREN IS A FIDUCIARY PRACTITIONER OF SA® AND CERTIFIED FINANCIAL PLANNER®.

Life's tragedy is that we get old too soon and wise too late

AMERICAN STATESMAN BENJAMIN FRANKLIN