



When I Die, What Happens to my Stuff?

by Doug Paterson, Q.C.

Most people do not have a good sense of where their possessions go when one dies.

If you have a Will, for those things owned entirely by yourself, you can give them to whomever you want. Assuming your Will cannot be attacked or changed for any reason, you can indicate exactly who is to get your land, monies, insurance, art, collections or whatever. For examples, “My antique Raleigh bicycle to my neighbour Ann”.

Most people, generally speaking, say all to my spouse and if my spouse predeceases, then to my children equally. So, if you are the first to die, all assets in your name alone go to your spouse. Any assets jointly owned are not covered by your Will and are not in your estate, and therefore at your death will become owned by the other joint owners (this subject only to very specific exceptions). So if 4 sisters own an apartment block jointly and 1 dies, the remaining 3 now own it jointly, and so on.

In fact, Will or not, what

usually happens when no spouse survives you (ie. You are the second to die) is a fairly regimented process. Those items or lands clearly to be given to certain people or charities are transferred to them.

Very often close family and friends are allowed to select small keepsakes or mementoes of the deceased at no cost provided all is fair and reasonable in the distribution process.

Then, friends and family are often given first chance to buy valuable assets at fair market value. If more than one person wants the same item, a sealed bid system can be used, or a flip of the coin or some objective method to arrive at the buyer.

Whatever is left is then made up of two divisions—one of items likely to sell and one of items unlikely to sell.

This latter group is often given to charity or simply junked — old lawn chairs, sealers and the like.

The saleable items are then

usually wholesaled out to be a used furniture dealer or put into an auction sale.

The monies received from any sale of course go to the estate residue and are distributed according to the Will or the Intestate Succession Act (no will).

Not everything must be liquidated. Very often bonds or company shares are merely transferred to the beneficiaries; same for houses, farms, cottages, etc.

Very often an item can be credited to a beneficiary's share. If all players agree, that \$20,000.00 1955 Chev Wagon can be credited to a person's share, say \$50,000.00, so the car and \$30,000.00 makes up the \$50,000.00.

The real lesson here is, if you want to protect some treasure, say your coin collection, or the farm, or the cottage, do a Will and deal with that item(s) specifically to try to ensure your intentions are met when you are gone.