

October 2023



A Foreigner with Singapore Assets – Make a Will

Proudly and well-deservedly, Singapore has taken its place as a stable and secure country to invest in. This sees an increasing number of foreigners picking up and placing assets within its shores. The distribution of these, upon the passing of the owner, will be in accordance with Singapore laws.

“

Always plan ahead. It wasn't raining when Noah built the ark.

Richard Cushing

”

Why make a Will?

You can decide completely who will inherit. There is complete testamentary freedom in making a Will.

Without a Will, the private international laws in Singapore apply. This means that there could well be more than one set of laws determining who will inherit your Singapore assets.

- For your **immovable assets** (ie. **real estate**), the distribution will be according to the law where the asset is situated; ie. Singapore. The intestacy laws of Singapore in the Intestacy Act will apply. The list of heirs who are entitled to your real estate may not match your wishes.
- For your **movable assets** (like shares in a Singapore incorporated company, monies and investments in a Singapore bank account, etc), the distribution will be according to the laws of your domicile at the time of your passing. This may not necessarily be the laws in the country of your birth, nationality, where you obtained permanent residency status or that you work in.

[As an aside, **even if you do have a Singapore Will**, the law of your domicile can affect the distribution of your **movable assets**. This can happen if, for example, you are domiciled in a country with forced heirship laws. Your heirs entitled, but not made beneficiaries under your Singapore Will, can challenge your distribution.

For individuals who move around a lot, you should seek advice on where your domicile is.]

Another good reason for making a Singapore Will is that you get to choose who your executors are. They are the ones who will take your Will to a lawyer and then attend to the proper and timely distribution of your assets to your beneficiaries once probate is granted. This is when your executors are legally recognized by the Courts to handle the distribution of your estate. Without a Will, the Singapore Courts may grant probate to a person who is not your choice.

Your executor need not be from Singapore. During the COVID pandemic, my late client's 2 executors, who were both Indian Nationals and residing in Kolkata and Bangalore, managed to obtain probate for a Singapore Will seamlessly.

A further reason for a Singapore Will is that the process of obtaining probate for a single Will which distributes your worldwide assets (known as a Global Will) is much longer. The delay may see your assets deteriorate. A Global Will must be proven in multiple Courts, and sequentially.

A separate Will, one for each country, is highly advisable. Carefully drafted, there is no overlap between them. Each is a standalone Will that addresses the distribution of assets in that country.

“

A Man can do all things if he but wills them.

Leon Battista Alberti

”

How to make a Will?

To make a valid Will in Singapore, the formalities contained in the Wills Act must be followed.

- The testator (the person whose Will it is) must be at least 21 years old.
- The Will must be writing. Electronic Wills are not acceptable.
- It must be signed by the testator at the foot or the end. An electronic signature is not acceptable.
- The testator's execution must be witnessed by 2 or more people present at the same time.
- The witnesses are to sign the Will as witnesses in the presence of the testator.
- Anyone can be a witness as long as s/he is not married or related to a beneficiary. Otherwise, the distribution to the spouse is void and that to a relative, open to challenge.

Can my Singapore Will be executed outside Singapore?

Ideally, your Singapore Will should be **executed in Singapore**.

This enables your Singapore lawyer to explain its contents to you, make sure you understand it and confirm that it is in accordance with your wishes at the point of execution.

Equally important is, that in taking you through the process of obtaining your instructions, drafting your Will and handling its execution, your lawyer is observing that

- You have the requisite mental capacity to make a Will.
- You are not being unduly influenced by anyone in the decisions you make regarding your Will.
- You are not under any duress to make your Will in a certain way.

This is for the protection of your Will. Increasingly, the contents of Wills are challenged on these grounds. The lawyer is a valuable witness.

If you choose to **execute your Wills outside Singapore**, then it is possible that the internal laws of another country may determine if your Singapore Will has been properly executed. These internal laws can be that of

- The country where the Singapore Will is executed
- The country where the testator was domiciled when the Singapore Will is executed or at the time of passing
- The country where the testator habitually resides when the Singapore Will is executed or at the time of passing
- The country where the testator was a national when the Singapore Will is executed or at the time of passing

The distribution of your immovable assets is not affected even if your Will is executed outside Singapore if it complies with the formalities under the Will Act (listed above). However, the distribution of your movable assets may be affected.

You may now ask

1. What is “domicile”?

It is the country you are most connected to at any point of time. To reiterate, it need not be the country of your birth, nationality, where you obtained permanent residency status or that you work in. In determining your domicile, the relevant considerations include where your family and friends reside, where you spend most casual time, where you have deep roots in the community, etc.

2. How if I get married after making my Will?

Your Will is revoked. However, if your Will was made in contemplation of this marriage, it will not be revoked.

3. If my spouse is a beneficiary in my Will and we divorce, is my distribution to him/her still valid?

Yes, it is. A divorce does not revoke a Will.

4. After making my Will, my circumstances changed significantly. Can my Will be presumed to have been revoked?

No, it remains valid.

5. Is there any inheritance tax in Singapore?

No.

6. My real estate in Singapore is to be distributed through my Will. Upon my passing, will there be stamp duty to transfer ownership to my beneficiary?

No.

7. Can I create a trust in my Will?

Yes, you can create a testamentary trust.

8. Are the contents of my Will confidential?

Once you have executed your Will in accordance with the Wills Act, there is no need for its publication.

9. Does my Singapore Will have to be registered? And if so, what does this entail?

The registration of your Will is not mandatory, though advisable. Registration is with the Wills Registry maintained by the Singapore Academy of Law.

The Registry does not keep nor require a copy of your Will. The only information required is

- The details of the testator
- The date of the Will
- Details of the person who drew up the Will
- Details of where the original Will is kept.

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A goal without a plan is just a wish.

— Antoine de Saint-Exupery — ”

About the Author



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