

**Response from guest speaker Jayden Chen for Key Questions from  
Standard Chartered Bank’s webinar on 21 August 2021  
titled “Will Our Estate End Up in Court?”**

Speaker’s Disclaimer:

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<b>1</b>	<p><b>I am a Singaporean and I have a Will in Malaysia and another Will in Singapore. Can the Malaysia Will be contested because there is an overriding Singapore will?</b></p> <p>Yes, if the Wills overlap or contradict each other. Ensure both Wills cover different assets and have no contrary sets of instructions.</p>
<b>2</b>	<p><b>If the Will states that a specific beneficiary is allowed to live in a property, how is the executor going to ensure that this is being adhered according to the Will? What happens if the executor failed to do so?</b></p> <p>It is beyond the executor's power to manage and control who is allowed to live in the property. It is the decision of the new owner with regards to who is allowed to live there. Unless the executor is also the trustee of the property in which case, he or she will act according to the testator’s instructions to limit the occupancy of the property only to the specific individuals.</p>
<b>3</b>	<p><b>I have signed as one of the witnesses of a Will. When there is an argument or dispute, will this be a burden to the witness? What could be the legal implication faced by a witness?</b></p> <p>Witness can be called to court to testify to the authenticity of the testator’s signature. You will not be legally sued unless you have contravened the law in respect of the Will, such as fraud.</p>
<b>4</b>	<p><b>If the original Will was allegedly lost by other parties and I only have a photo of the Will, can the photo be used as evidence of the Will?</b></p> <p>Most likely no, it must be a formal written document. Photocopy of the Will stands a better chance of being accepted by the court.</p>

5	<p><b>A woman was divorced for a few years and her ex-husband just passed away with a Will made 10 years ago when they were still married. She was named as the testator's spouse and was appointed as the executor, trustee and one of the beneficiaries in her ex-husband's Will. Can she who is the ex-wife still be the executor, trustee, and beneficiary of the Will? Can the Will be contested by others in court?</b></p> <p>A divorce will not revoke a Will or the clauses in it. As such whatever position the former wife has in the Will remains the same. She will remain as the executor of the Will and as a beneficiary in the Will, she is entitled to the estates stated in the Will. A testator should update or make changes to the Will when there is a change in circumstances. Generally, other beneficiaries or any person who have sufficient legal standing or genuine grounds can challenge a Will.</p>
6	<p><b>Can a Will of a Muslim be contested given that the Will is very specific on the distribution of the assets?</b></p> <p>Yes, there are disputed cases in court regarding Muslim's Wills/Wasiats too.</p>
7	<p><b>Wills are normally written in English or Malay; can it be contested on the ground that the deceased did not understand these languages when he or she made the Will?</b></p> <p>This could be a basis for contest if it can be proven that the testator didn't fully understand the content and effects of the Will.</p>
8	<p><b>Can the disputing parties pursue arbitration instead of the court, especially when the assets are not big?</b></p> <p>Disputes regarding the grant of probate or letter of administration are not arbitrable. There are limitations to the powers of the tribunal in comparison with those given to the judges of national courts, such as compelling attendance of witnesses and orders against non-parties.</p>
9	<p><b>For estate equalisation - when is the right time to evaluate the value of business and property (land/house) in order to determine the top up amount needed to equalise the estate value? Business and property value change over time.</b></p> <p>Review your Will when the changes in value of assets becomes significant, or whenever you acquire new valuable assets. You may communicate with the beneficiaries that there could be slight difference in value as they change over time. A reasonably equal estate should be satisfactory to the beneficiaries and may reduce the chances of disputes.</p>
10	<p><b>I have 3 children. I've made an insurance nomination by nominating my eldest son as the only beneficiary for my insurance policy and I didn't put the other 2 children's name in the nomination. Upon my death, who will get the claim payment? Can the other 2 children contest it?</b></p>

	The eldest son will receive the insurance claim money. The other 2 children have no grounds to contest the beneficial interest of the eldest son in the insurance money.
11	<p><b>Can EPF nomination be challenged in court?</b></p> <p>Highly unlikely in respect of its nomination and transfer of beneficial interest of the EPF payout to the nominee unless there is fraud in the nomination process.</p>
12	<p><b>Can a relative of a beneficiary contest a Will?</b></p> <p>It depends on whether the relative has standing or sufficient potential interest in the estate by virtue of him or her being a beneficiary in a previous Will or under the intestacy law, or a creditor.</p>
13	<p><b>Who will be responsible to pay the legal fees if dispute is brought to court?</b></p> <p>Each party will pay their own respective fees.</p>
14	<p><b>How long should the estate file be kept open as far as the Tax Dept (Malaysia) is concerned?</b></p> <p>No definite period. They can take legal action to recover debts owed to them any time.</p>
15	<p><b>Sometimes I change or update my signature for my bank account. Can my Will be contested due to my signature in my Will differs from my bank account's signature?</b></p> <p>It should not be a concern if the signatures are authentic and done in compliance with the law. The court may look at the other recent documents with your signatures on it and make a comparison. The witnesses of your latest Will will also be called by the court to testify to the authenticity of your signature as they witnessed your signature.</p>
16	<p><b>If content of the Will is shared with all the beneficiaries and family members in a pre-arranged meeting, after death, can it still be contested?</b></p> <p>Yes, if there are sufficient grounds.</p>