

LAW & YOU

How to secure my asset for my children



UPON DEATH, WHETHER WILL EXIST OR NOT



WILL OR NO WILL

- **WILL EXECUTED**
- **TO COMPLY WITH THE TERMS AS STATED IN WILL**



- **NO WILL (INTESTATE)**
- **TO ADHERE TO DISTRIBUTION ACT AS TO THE BENEFICIARY(IES) OF THE ESTATE**

NO WILLOF

- **AN EXECUTOR/ADMINISTRATOR WILL HAVE TO BE APPOINTED, USUALLY FROM LIST OF THE NEXT OF KIN**
- **ASSETS WILL BE DIVIDED PURSUANT TO DISTRIBUTION ACT.**
- **PRIMARY BENEFICIARIES ARE :**
 - **- SPOUSE**
 - **- PARENTS &**
 - **- CHILDREN**



SECONDARY BENEFICIARIES

If all 3 types of beneficiaries are dead, then secondary beneficiary(ies) comes into the picture ie.

- Siblings
- grandparents
- uncles & aunts
- great grandparents
- Great grand uncles & great grand aunts
- Government



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PREPARATION OF WILL

- **ROLE OF EXECUTOR/EXECUTRIX**
- **THE PERSON WHO WILL APPOINT THE SOLICITOR, ATTEND HEARING IN COURT, EXECUTE ALL DOCUMENTS IN PLACE OF THE DECEASED.**
- **MINIMUM 1 PERSON AND MAXIMUM 4 MAY BE APPOINTED.**



PREPARATION OF WILL

- **APPOINTMENT OF TRUSTEE**
- **TRUSTEE REFER TO ANY PERSON WHO HOLDS PROPERTY, AUTHORITY, OR A POSITION OF TRUST OR RESPONSIBILITY FOR THE BENEFIT OF ANOTHER.**
- **USUALLY FOR A MINOR**
- **A PERSON WHO IS ALLOWED TO DO CERTAIN TASKS BUT NOT ABLE TO GAIN INCOME.**



TRUSTEES HAVE CERTAIN DUTIES, THEY ARE TO:

- **CARRY OUT THE EXPRESSED TERMS OF THE TRUST INSTRUMENT**
- **DEFEND THE TRUST**
- **PRUDENTLY INVEST TRUST ASSETS**
- **BE IMPARTIAL AMONG BENEFICIARIES**
- **ACCOUNT FOR ACTIONS AND KEEP BENEFICIARIES INFORMED**
- **BE LOYAL**
- **NOT DELEGATE**
- **NOT PROFIT; HOWEVER, MAY CHARGE FEES FOR SERVICES TO THE TRUST**
- **NOT BE IN A CONFLICT OF INTEREST POSITION**
- **ADMINISTER IN THE BEST INTEREST OF THE BENEFICIARIES**

TRUSTEE – INDIVIDUAL

- **SOMEONE THAT YOU CAN TRUST**
- **PERSONAL**
- **UNDERSTAND YOUR WILL AND INTERPRETS YOUR WILL ACCORDING TO YOUR WISHES**
- **WILL PERSONALLY ATTEND TO YOUR BENEFICIARY(IES)**



TRUSTEE - CORPORATION

- **SUPPOSEDLY MORE TRUSTWORTHY**
- **GOVERNED BY BANK NEGARA AS TO THEIR OPERATIONS**
- **MORE PROFESSIONAL IN MANAGEMENT**
- **MORE EXPENSIVE, FEE CHARGED USUALLY A PERCENTAGE OF ESTATE (IE. 10-30% OF THE ESTATE)**



MINORITY

- **COURT VIEWS SERIOUSLY ON RIGHTS OF THE FOLLOWING –**
- **MINORS**
- **DISABLED**
- **MENTALLY CHALLENGED**



TRUST CORPORATION

- **AMANAHRAYA IS A TRUST CORPORATION WITH JURISDICTION IN ESTATE ADMINISTRATION.**
- **1. SECTION 17 (1), PUBLIC TRUST CORPORATION ACT 1995 AMANAHRAYA ADMINISTER ESTATES WITH MOVEABLE ASSETS BELOW RM600, 000. IN SUCH CASES AMANAHRAYA ISSUES A DECLARATION CONTAINING PARTICULARS OF THE ESTATE FOR DISTRIBUTION AMONG THE BENEFICIARIES. IN THE CASE OF NON MUSLIMS, DISTRIBUTION IS DONE ACCORDING TO THE DISTRIBUTION ACT 1958.**
- **2. SECTION 17 (2), PUBLIC TRUST CORPORATION ACT 1995 AMANAHRAYA ADMINISTER ASSETS BELOW RM50, 000 WHEREBY IT ISSUES A DIRECTION SHOWING THE SCHEME OF DISTRIBUTION OF THE ESTATE TO THE BENEFICIARIES WHO IN TURN NEED ONLY PRODUCE THE SAID DIRECTION TO THE RELEVANT FINANCIAL INSTITUTION FOR PAYMENT TO BE MADE TO HIM/HER AS PER THE DIRECTION.**
- **3. SECTION 8, SMALL ESTATES (DISTRIBUTION) ACT 1955 AMANAHRAYA FILES A PETITION AT THE SMALL ESTATES DISTRIBUTION OFFICE FOR APPOINTMENT AS THE ADMINISTRATOR OR FOR A DISTRIBUTION ORDER IN RESPECT OF MOVEABLE* AND IMMOVABLE PROPERTIES OR FOR IMMOVABLE PROPERTIES ONLY BELOW RM 2,000,000.**

AMANAH RAYA

4. SECTION 13, PUBLIC TRUST CORPORATION ACT OF 1995 AMANAH RAYA FILES A PETITION IN THE HIGH COURT FOR THE FOLLOWING PURPOSES:

- **TO ADMINISTER ESTATES WITH MOVABLE AND IMMOVABLE PROPERTIES ABOVE RM 600,000;**
- **TO OBTAIN A GRANT OF PROBATE FOR ESTATES WITH WILL OR LETTER OF ADMINISTRATION FOR INTESTATE ESTATES.**
- **MOVEABLE ASSETS: EG: CASH, BANK SAVINGS ACCOUNT, SHARES, AND UNIT TRUST.**
- **IMMOVABLE ASSETS: EG: LANDS AND BUILDING**

- **SERVICE FEE (SECTION 17 & 13)***
- **4.00% OF THE 1ST RM25,000**
- **3.00% OF THE NEXT RM 225,000**
- **2.00% OF THE NEXT RM 250,000**
- **1.00% OF THE NEXT RM 500,000**
- **0.50% OF THE REMAINING BALANCE**
- **SERVICE FEE (SECTION 8)***
- **2.00% OF THE VALUE OF THE ESTATE.**
- ***NOT INCLUSIVE OF THIRD PARTY COSTS. SERVICE FEE IS BASED ON CURRENT RATES.**

INDIVIDUAL OR JOINT TRUSTEE

- **MORE ACCOUNTABILITY**
- **MAY HAVE DIFFERING VIEW BUT UNABLE TO RUN AWAY FROM THE WILL OR TRUST CREATED BY THE DECEASED**
- **TO APPOINT SOLICITOR TO PROCURE GRANT OF PROBATE WHEREB THE COSTS IS MUCH LOWER**

