



# WILLS

## Matter

### A PRIMER ON PROPERTY – HOW IT PASSES UPON DEATH

The law recognizes many different types of property, and there are special rules to determine how each type passes out of your name upon your death. Let's consider Adelaide and Bertha, two elderly, widowed sisters who have lived together for decades. Adelaide passed away at the ripe old age of 95, just shortly after laying down the winning hand in a game of poker.

As a general principle, property that is held jointly between two or more persons will pass to the surviving joint owner(s). Thus, the sisters' jointly held bank accounts and investments accounts will pass to Bertha, as the surviving joint owner. The same goes for their jointly held personal property such as their motor home and Volvo sedan, because both sisters were the registered owners of these items.

Each of the sisters also has an interest in a lakeshore property on Okanagan Lake. The sisters are registered on title to the property as 'tenants in common'. Accordingly, Adelaide's interest does not pass automatically to Bertha, as it would have had they been joint tenants. Instead, her half-interest forms a part of her estate and will be disposed of by the terms of her Will.

Adelaide had a colourful past. She spent her youth in P.E.I., and amassed a small fortune rum running during the Prohibition. She banked all her money and eventually purchased a life insurance policy and invested in RRSPs. Had Adelaide designated a particular person as the beneficiary of her insurance and RRSP, the proceeds would not have passed through her estate upon her death (except if the named beneficiary had predeceased her). Instead, she designated her estate as the beneficiary, and so the proceeds will in fact pass through her Will.

In recognition of their lifelong sisterly companionship, Adelaide named Bertha as the sole beneficiary in her Will. Bertha takes ownership of the Okanagan Lake property, the life insurance proceeds and the RRSPs, and sips a snifter of port in memory of Adelaide.\*

#### *Contact Fulton & Company's Wills & Estates Team*

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