



# WILLS

## Matters

### “THE BRADY BUNCH ?!” – PART II

In the last edition of *Wills Matters*, we introduced you to Frank and Mary, who are encountering an issue commonly faced by blended families when making Wills and estate plans. You will recall that Frank has biological children from his first marriage, who are grown and self-sufficient - they probably make even more money than he does! His wife, Mary, however, is in need of support after he is gone.

Frank is concerned that if he leaves all of his assets to Mary under his Will, his children could challenge his Will after he dies, under the *Wills Variation Act*. The *Wills Variation Act* permits a child who feels he or she has not been adequately provided for by the Will of a parent to contest the parent's Will, seeking to vary the Will in the child's favour.

The simplest means of avoiding a *Wills Variation Act* challenge is to ensure that there is no “estate” which will pass under the Will. One way of doing that is for Frank to put all of Frank's assets (land and buildings, bank accounts and vehicles), into the joint names of Frank and Mary, with each having a “right of survivorship”. Then, on Frank's death, all of the jointly-held assets will pass to the Mary as the survivor, or vice versa if Mary dies first. When that happens, the assets do not become part of the “estate” and are not dealt with by any Will, so there is nothing to contest under the *Wills Variation Act*.

However, as discussed in Part I, once Frank's assets go to Mary, unless Frank takes some further steps, Mary then has complete control of those assets and may decide NOT to leave anything to Frank's children.

Blended families require special legal advice to help them properly arrange their affairs in a fair and effective way. Your Wills and Estates lawyer can advise you about the advantages and disadvantages of the various tools and other estate planning alternatives and assist you in devising an estate plan that best suits your circumstances.\*

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

if you have any questions regarding wills or estate matters.

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