



Something Old, Something New

Kathryn Jankowski / May 01, 2010

The day my husband proposed to me, he got down on one knee and began: "There comes a time in every man's life when he must choose a second wife..."

I accepted.

The complexity—and more practical aspects—of his proposal hit me a few days later. This was a second marriage for both of us. I also had two children from a previous marriage. What if my new husband was to outlive me—would my estate automatically be willed to him? What about the legacy I hoped to leave my children one day?

As a financial divorce specialist, I have experienced my share of divorces—one of my own, and those of the clients I have counselled. It's no surprise that my clients aren't lining up to see me at the same time they are choosing their wedding colours. But that is just the time when counsel is most needed, whether it's a first, second or third marriage. Many times, a re-marriage presents unique issues—the bride-to-be may already have a family or a large wealth disparity—so it's prudent to put the financial issues in place and take a look at some other practical issues long before walking down the aisle.

Planning more than a wedding

While planning my second wedding, I decided that I was more than willing to share any future wealth my new husband and I built together in the years that followed our wedding, but I was adamant that what I had already accomplished and accumulated before the wedding—100% of it—would go to the children from my first marriage.

During a divorce, the matrimonial home is typically split 50/50 between husband and wife, or 100% goes to the surviving spouse in the case of death, on one condition: if it is held in both names as joint tenants. If, however, I had a prenuptial agreement drawn that stated 100% of the house would go to my children upon my death, it would raise other issues. Where would my husband live? I didn't want to cause additional hardship during a grieving period.

And, when a spouse doesn't leave anything to the surviving spouse, the surviving spouse could contest the will to claim some residual benefit from the estate. In those cases, it's often thought that the deceased spouse wasn't realistic in providing for the survivor's needs.

A realistic solution

My solution was to have my husband and me own our matrimonial home as "tenants in common," which means it is split on a percentage basis. For example, if I should pass away, half of the value of my house would go to my children and the other half would be my husband's. A perfect solution? Maybe, maybe not. I needed to take it a step further. I added that after one year, my husband would be required to sell his share of the house to my children, buy my children's half out and keep the home with 100% ownership or sell the home and give them half of the value.

In addition, I could protect my husband's interest by owning a personal insurance policy to cover the approximate value of my half of the value of the home. Alternately, if my husband were to pass away first, his portion of the matrimonial home would go to his children, which would then force me to either sell the home or buy out his children's portion after one year.

There are many other variables that make each situation unique and a financial divorce specialist is skilled in sorting through the issues. Since a will becomes null and void at the time of remarriage, it's an ideal time to put the necessary plans

in place to protect already accumulated and potential wealth in the event of divorce or death. That way, all the couple's remarriage wishes—both the happy and more practical ones—are fulfilled.

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