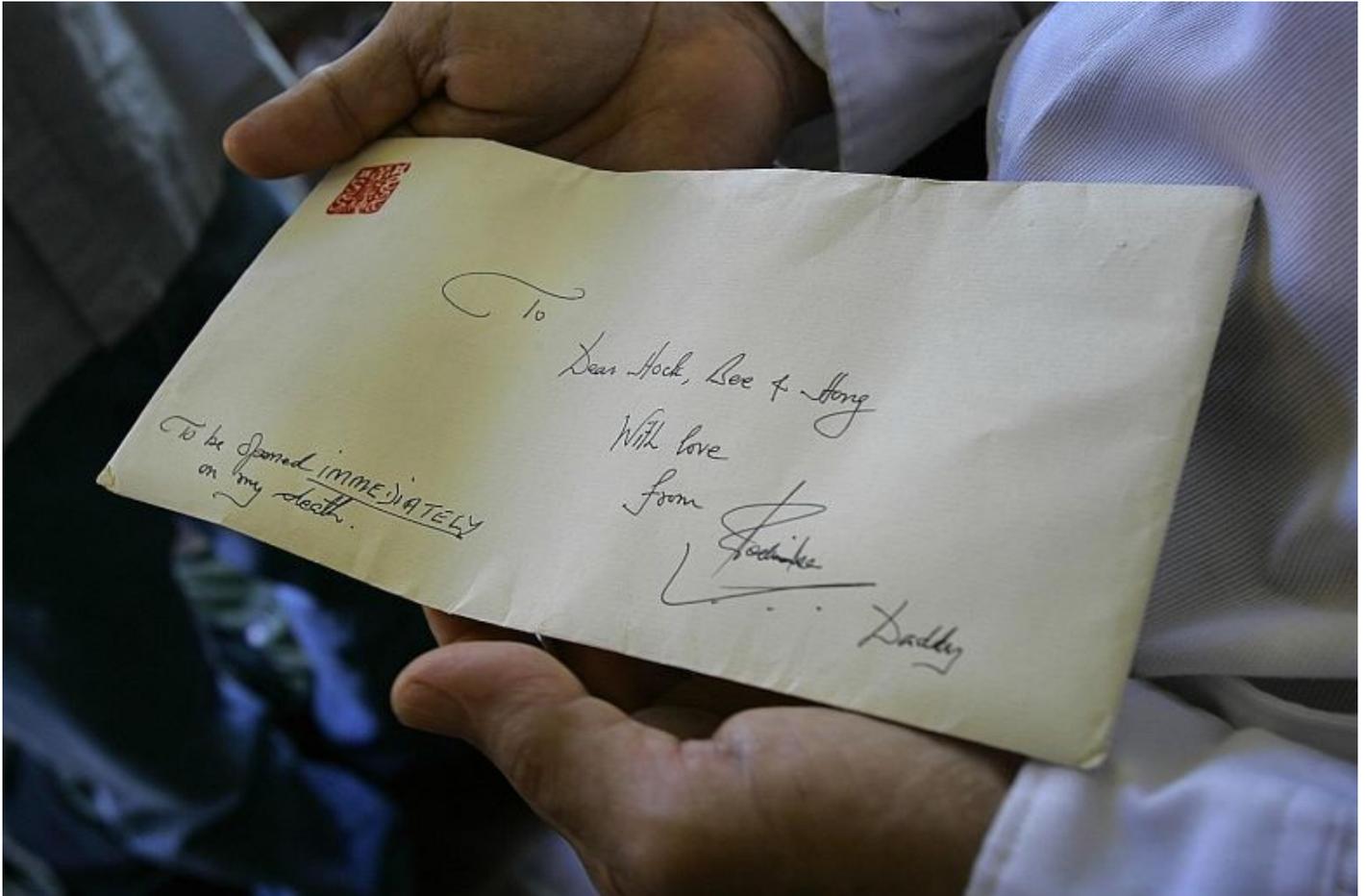


Without a will, families could break up



A will left by former Singapore president Wee Kim Wee for his children. Dr Wee died on May 2, 2005. A Society of Trust and Estate Practitioners survey to find out how prepared adults here are when it comes to end-of-life matters shows that there is still much improvement needed. ST FILE PHOTO

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The peril of not having a will done may even put children at risk

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They had a happy family with two young children but tragedy struck one day when the couple were killed in an accident.

It was a double blow for the kids - they not only lost both parents but they also had no one to fend for them legally because their parents died without leaving a will. This left the issue of the children's guardianship in limbo.

As they were minors, the children could not even get someone to help to apply for a court order to ensure that their parents' assets or savings were properly transferred or used to take care of them.

To make matters worse, family members of the dead couple did not see eye to eye on who should take care of the kids. In such circumstances, children could end up being moved from one home to another, causing them more grief.

This is one of the heartbreaking cases that the Society of Trust and Estate Practitioners (Step), a global association for professionals specialising in family inheritance and succession planning, have encountered in which someone dies without a will.

Step recently conducted a survey to find out how prepared adults here are when it comes to end-of-life matters.

The results show that there is still much improvement needed.

MOST HAVE NO WILLS

The poll found that 56 per cent of adult Singaporeans did not have a will. This result is close to CPF Board's own statistics that about 60 per cent of eligible members have yet to nominate any beneficiary for their money.

Even among those who said they made wills, only 14 per cent had one that was up to date. Many of the rest either had wills that did not properly express their wishes or had ones that were still being worked out because they had not had any discussion with spouses or family members.

And only a quarter of Singaporeans with young kids had nominated guardians for their children should they meet with a sudden death.



Society of Trust and Estate Practitioners chairman Sim Bock Eng, a seasoned lawyer who is also WongPartnership's head of the specialist and private client disputes practice, has seen families torn apart or fall into hardship when the heads die without a will. PHOTO: SIM BOCK ENG

This lapse was even found among parents who had made wills: They gave only direction on their wealth distribution and about 66 per cent of such wills made no mention of the guardianship of their kids, thus putting them at risk of disputes and foster care.

MANY UNPREPARED FOR SUDDEN INCAPACITY

Only 10 per cent of adults polled said they had a lasting power of attorney (LPA), which would allow the appointment of a legal representative to help manage their wealth in case they lose their mental awareness due to old age, illnesses or accidents.

Indeed, the general awareness on why an LPA is needed is quite poor, even for those who say they have made provisions, with around 30 per cent saying they were unsure when it would come into force.

The LPA is a legal document that allows you to appoint one or more trusted people who will act on your behalf based on your specific instructions or for your general interests should you lose your mental capacity.

This is especially critical if you own a business and have specific plans. Your LPA representative will ensure that your wishes are carried out when you are unable to do so.

The Step survey revealed that over 60 per cent of people who own businesses have yet to set a succession plan.

It is common for people to procrastinate and not think about end-of-life matters, especially when they are busy working.

But Step Singapore chairman Sim Bock Eng says it is useful to pause and ponder on things that are more important in life.

"We put in a lot of time and effort to build our wealth and even more time and attention to take care of our loved ones in our lifetime.

"It is important that our efforts are not wasted, simply by failing to plan how our loved ones and our wealth will be taken care of when we are not around.

"Just as we rush to purchase an endowment or education policy with the birth of each child, we should think about our own succession with each milestone in our life," she said.

Ms Sim, a seasoned lawyer who is also WongPartnership's head of the specialist and private client disputes practice, has seen enough families torn apart or fall into hardship when the heads die without a will.

Here are some disputes that have ended up in legal battles.

FAMILIES FIGHT OVER ASSETS

It is common for siblings to fight over their parents' assets but in some cases, they even fight over who has the right to deal with these assets.

In one case, a man died without a will, so his assets were to be divided equally among all his children, but they fought over who should be the legal representative of the estate.

This was ultimately decided by the court in a contentious hearing.

The application for this order also took a few years as the court required all the beneficiaries to give their consent and some of them refused to.

In another case, a woman had been cared for by her step-sister for several years until her death from a long illness. As she died without a will, her home and all her assets went to her three direct siblings even though she had not had any contact with them for over 10 years.

The Intestate Succession Act states that only full siblings had the rights to share the dead person's assets and so the step-sister got nothing even though she was her closest kin in life.

NO LEGAL INSTRUCTION CAN MEAN LOSSES

Just like wills, many people assume that an LPA will come in handy only in old age but the reality is that no one can tell when trouble will strike.

Take this case. A man had a stroke and went into coma while he was driving home from work. It happened just after he signed an agreement to buy a new property.

He had to pay the remaining down-payment within a few weeks or risk losing tens of thousand dollars of his initial deposit.

He had ample funds in his bank account but because he was in coma, he could not confirm the purchase or withdraw money to pay for the property.

If he had an LPA, his representative could have done both tasks.

This forced his family to make an urgent court application to appoint a representative so they would avoid losing the deposit.

CHAOS WHEN THERE IS NO SUCCESSOR

Family businesses can be torn apart if the owners fail to name a successor, something that happened to a man with four children.

After his death, the children had the right to share his business equally. Since everyone had equal power, a dispute erupted as all of them fought to become the leader.

Ms Sim says these cases highlight the importance of planning for "the people most precious to you and hard-earned items in your life".

But she warns people not to try to write wills themselves.

"There are many stories of how these can go badly. Please speak with your lawyers or persons who are trained and specialise in such work," she says.
