WILLS, A TANGLED MESS

Facts

John and Mary drafted Wills which mirrored each other. Each Will stated that the survivor would leave their estate to their three adult children equally.

John passed away in 2014 and in 2015 Mary changed her Will leaving the major asset (the home) to one child and residue to 6 grandchildren and nothing to her other two children.

Several years later Mary reconsidered and drafted a new Will reinstating the objectives she and John had previously agreed to.

Mary failed to sign the new Will.

One of the children filed an application for part of Mary's estate on the basis that Mary should have made provision for her in the 2015 Will. She also filed to have the unsigned Will declared to be an informal Will. After lengthy, expensive legal proceedings the two cases were settled and a small provision was made for that child.

Solution

1. A contract can be made between married or de facto partners whereby they agree to leave a Will and not change it after the death of one of them.

2. It is possible to leave a life estate to the survivor from the assets of the first to die. This may require a change to how the home is owned.

See Smallwoods Lawyers to ensure that your estate planning objectives are met.

For advice on estate planning please contact Richard Smallwood on 9939 3446

SMALLWOODS LAWYERS
Suite 146, First Floor, "Lifestyle Working"
117 Old Pittwater Rd, BROOKVALE
(Behind Warringah Mall)

Ph 9939 3446
www.smallwoods.com.au