

THE WEEKENDER

have a good one

LEAVE A SIMPLE WILL FOR HEIRS AND EXECUTORS

WHY is it that some people think a complicated will, using all sorts of words and phrases that are difficult to understand and incorporating some or other control mechanism over their worldly possessions, is the ultimate exit strategy to life?

“I have worked hard for my money and will not let my heirs squander their inheritance,” is a statement I often hear during a first meeting to draft a will.

I have come to the conclusion that it has probably something to do with the person’s generation as opposed to a real obstinate obsession to withhold their worldly belongings from anybody.

Most of my retired clients remember the postwar rebuilding years. Basic foodstuffs were difficult to come by, work was scarce and the future uncertain. Their protectionism is in all probability a genuine attempt to ensure that the hard times they have endured do not befall their loved ones.

There is, however, a correct and an incorrect way to deal with this. I do not for one moment suggest that one should not be concerned — or at least, not give any consideration to — protecting assets for the next generation who may not be able to do so themselves. Be practical. Do not create a burden for your executor or trustees and ultimately, your heirs, who have to implement and administer this structure when it is not justified.

Trusts that are set up to last in perpetuity usually do not. Usufructs are wonderful tools if used for their originally intended purpose, but a millstone around your neck if used for the wrong reasons. It is often impossible to get rid of such a structure until some future event occurs, and then at considerable cost.

Many of the available structures are there merely to create a steady workflow for accountants and other advisers.

Ask your children what they want. I often find that it is best to do an estate plan with the needs of the bigger family in mind. Take cognisance of existing trusts and other estate planning vehicles that your children may already have set up for their own needs. If they choose to receive any benefit directly, notwithstanding the benefit that any of these control mechanisms can offer, so be it.

A properly drafted estate plan will take the needs of family members into consideration and is the end result of a structured process in which a proper analysis of the goals of the estate planning exercise is the focus. Do not just try to avoid estate and other taxes. Many a well-structured estate plan has failed because, although very tax- efficient, it neglected the needs of family members.

The world has become a small place and the generations to come will live in a world without boundaries. Do not restrict the movement of assets or the transfer of wealth that could otherwise have benefited your children and grandchildren just because your estate plan is too rigid to adapt to the realities of a changing society.

Think about these issues and plan accordingly. Get rid of unwanted and outdated structures, transfer wealth to those who need it now. Why not enjoy your wealth with your family and children? A will does not have to be an unduly complicated document to be effective. A carefully thought-through will, consisting of only a few pages and drafted by an estate practitioner, can also save money on the payment of unnecessary estate and other taxes.

- *Willie Fourie is CEO of PSG Konsult Trust.*