

Selling inherited property

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Under Jersey law, as soon as a person dies, their freehold property automatically vests in the heirs at law (the individuals who would inherit your property on an intestacy which is subject to your personal circumstances) and they become the legal owners of the property. If the deceased left no Will of Jersey immovable estate (the "Will") then nothing more can be done. Surprisingly, there is no legal document registered or held in the Public Registry confirming the property ownership.

If there is a Will, but the Will devises the property to the heirs at law (and in the same proportions as the law advises), then the Will does not necessarily need to be registered. It is, however, always beneficial to register the Will as the Public Registry shall then hold the registered will confirming the heirs' title to the property which will potentially avoid delay of the sale of the property. The stamp duty payable on such a registration would be nil, only the lodgement fee (currently £80) would be payable.

If the Will devises the property to individuals other than the heirs at law, or in different proportions to that provided by the law, then it is advisable to register the Will as soon as possible. It is only upon the registration of the Will that the ownership passes to those named in the Will (for a brief period the property will vest in the heirs at law). Stamp duty is payable of the registration of the Will and it is advisable to speak to your lawyer regarding your circumstances so that they can advise upon the level of stamp duty payable. The stamp duty which is payable cannot unfortunately be postponed until after sale.

When selling your inherited property, if there is no Will in existence or registered, you will need to ensure you provide your lawyer with the deceased's death certificate, a copy of the unregistered Will (if applicable) and you will be asked to swear a legal document known as an affidavit confirming information regarding the heirs at law and your family tree.

If there is a registered Will then the above documents will not be required as the Will registered in the Public Registry will confirm your title to the property. If the Will does not refer to you specifically and uses terminology such as "my children", an affidavit may still be required.

Finally, under Jersey law, if a property is sold within a year and a day from the date of registration of the Will, the Will is open to challenge by an interested party if a later valid Will can be produced or the current Will can be proved to be invalid i.e for not being executed in accordance with law. For your information, Wills of Jersey immovable estate need to meet formal validity requirements to be valid, for example, one requirement is that the Will needs to be read aloud and witnessed by a Jersey qualified lawyer.

Likewise, if there is no Will, the year and a day period (which in this instance runs from the date of death) is open for another heir at law to come forward or make a claim.

No matter how slim the chance of any of the above occurring, no purchaser or lending institution will be prepared to take on this potential risk. There are, therefore, two options to sell within the said period:

1. The first option is for the vendor's lawyer to hold the proceeds of sale for the remainder of the year and a day and only release the funds to the vendors once the period has expired (this however may not be an option for you if there are

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charges secured against the property or the funds are required for other purposes).

2. The second is for defective title insurance to be obtained. Such insurance is something that your lawyer can obtain on your behalf, however your co-operation will most often be required and there are cost implications. The cost is based of the value of the property and the term of the year and a day remaining can also be a factor. The insurance can range from £500 to £,3000, and, is in most cases paid for by the vendor.

For more information please contact:



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