

Raha Financial - Marital Status

Problem: The marital regime may impact on the freedom of testation of a client:

ANC with Accrual: The accrual claim is a concurrent claim in the estate. An accrual claim might derail bequests to persons other than the Spouse. It is settled before inheritances are finalised.

COP: Testator can only leave 50% of joint estate to his heirs.

ANC: If no provision is made for the Spouse in the Will, it may delay winding up of estate because of the claim against the estate to the Maintenance of Surviving Spouse's Act.

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Guide the Client to understand the impact of his marital regime in his estate plan and address it in Estate Plan.

* Obtain a copy of the Will to ensure it is financially executable, and avoids problems mentioned above.

* Address the financial needs particular to a marital regime.

Action

Obtain financial information of both spouses.

ANC with Accrual: Determine the accrual claim in favour/against deceased estate and check that it is taken into consideration in the Will.

COP: Each spouse owns only 50% of the joint Estate, the other 50% is the property of the other Spouse, who claims it as owner and not as an inheritance. If an asset is bequeathed to persons other than the spouse, it is in fact a bequest of only the 50% share of the deceased person's ownership therein. The heir will have to pay the surviving spouse to obtain the other 50%.

Rather provide for bequest via policy (if possible).

ANC: Make provision via death benefit for spouse in the client's estate plan.

Nominate spouse as beneficiary.