

Everything You need to Know About Planning Your Will in Costa Rica

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All expats living in Costa Rica part or full time that have investments in the country should take in consideration what will happen in case they die. Making plans regarding this difficult topic could avoid leaving legal swamps for your loved ones. People always expect to live as long as possible, but certainly an accident or unexpected disease could suddenly change everything. The legal document that usually comes to mind is to prepare a **“Last Will & Testament”** document in order to set the rules of asset distribution in advance.

Having a Last Will & Testament in your country of origin does **NOT** imply that the holdings purchased in Costa Rica are protected, since many of these instruments would be invalid here because there are special regulations regarding wills. Because of this there is an extremely complicated, time consuming and expensive procedure to enforce them. In view of the foregoing it is best to prepare and sign a will **IN** Costa Rica exclusively for property/assets acquired in this country.

For those married it is also possible to execute a **“Joint Will”** containing different type of provisions in case of separate or simultaneous deceases. It is very important to clarify that in case of death without a will the internal laws of the country indicate (Decide) those entitled to receive the assets, existing such as wife, children and parents of the deceased. Every last will & testament requires appointing of an Executor who is usually a person trusted completely and can be also an heir.

The two types of Wills that can be made are described as follows:

- **Open Will.** The entire document is prepared by a Lawyer- Notary according to Testator's wishes then introduced on the Protocol Book of the Notary. Testator needs to sign in front of three witnesses as a requirement of the document to be valid. Once signed, the Notary will issue a certified copy to Testator. This type of Will is considered a public record so actually gets recorded on a department at the National Records building -Archivo Nacional-. It can be revoked or modified anytime Testator's wishes to do so. There is no problem in case Testator loses the initially provided copy as a public record can always be replaced.
- **Closed Will.** Testator writes down the document by itself and places it into a sealed envelope. Next step is to take it in front of a Notary Public who will place a document over the envelope acknowledging such document was declared by Testator as his or her Last Will

& Testament, all of this happening in front of two witnesses. There are several risks involved with this kind of document since in case the envelope gets lost or destroyed there is now way to replace it or know its content.

There is freedom in Costa Rica to set the rules of the Will document's contents. However, some exceptions will occur when Testator has minor or handicapped children and/or wife. In case of minors, courts will always grant their support until they are of legal age or find a career if studying. Same for handicapped, but on such situation their support needs to be secured for life, and in case of a wife the court needs to grant her right to 50% of assets acquired during marriage time.

It is necessary to take in consideration that whether there is a will or not, a probate process always needs to be started in Court and that takes time as well as funds required to cover different costs such as advertisements, appraisals, taxes and lawyers' fees. When there are no minors, handicapped children or conflicts among potential beneficiaries, the heirs can proceed hiring a lawyer- notary who replaces the Court duties and is allowed to perform the probate reducing the time of the procedures from years to a few months only.

There are other alternatives, though. On most Bank products such as savings, checking accounts or certificates of deposit it is possible to appoint beneficiaries. Same with insurance policies. No probate required in those cases. Those owning Real Estate Property in a personal name should consider transferring said properties into the heirs' names then keep the usufruct right as a lien on the property. Such lien grants the right to use and enjoy the property for life. Upon death, the lien gets cancelled so the heirs acquire full control of the property.

As explained, there are many ways to deal in the event of death avoiding loved ones to suffer the consequences of the lack of planning while still alive.

About the Author: Allan Garro was incorporated as a lawyer and public notary in 1996. He specializes in Litigation, Corporate, and Real Estate Law. He has also acted as an external legal consultant to Congress. He has been the author of more than 100 published English Language articles and can be reached at [\[email protected\]](#)