

YOUR PERSONAL ADVISER: FINANCE

Can stepmum claim flat dad gave me?

In full control

When the transfer of the flat from your father to you was completed, your father's spouse no longer had any legal recourse to your flat. You have full legal rights to your HDB flat now. Your father's spouse will not be able to make any claim on your flat at all.

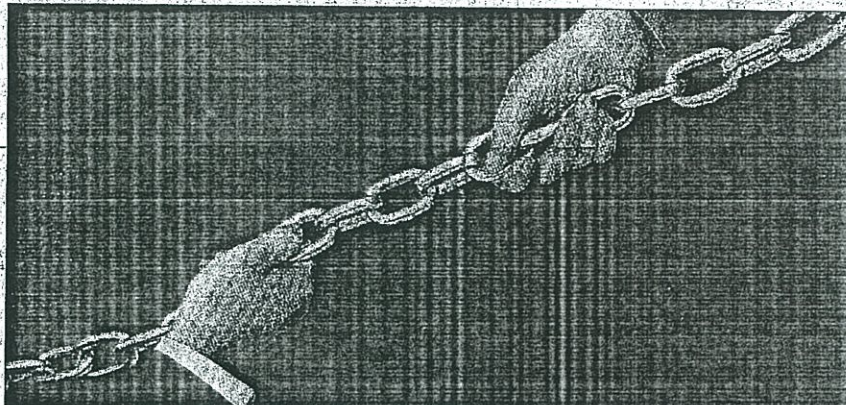


PHOTO ILLUSTRATION: ISTOCKPHOTO

Q LAST September, my father, a widower, married a foreigner he met through a matchmaking agency.

Before the marriage, he started the process of transferring his HDB flat to me.

The transaction was completed after his marriage and I'm now the sole owner of the flat.

I'm 34 years old and live in the flat while my father and his new wife live elsewhere.

In the event that my father dies or is divorced, will his spouse be able to make a claim on my HDB flat? How will his assets such as shares, savings and car be divided?

A The answer to your first question is "no". You have full legal rights to your HDB flat now.

Your father's spouse will not be able to make any claim on your flat at all.

When the transfer of the flat from your father to you was completed, your father's spouse no longer had any legal recourse to your flat.

As you are 34 years old, your father and his spouse must have been named as registered occupiers of the flat.

When you signed the HDB application form at the HDB branch office, you probably put your father and his spouse as occupiers of the flat.

The HDB's ruling is that persons below the age of 35 can own HDB flats only if a family nucleus is formed.

A family nucleus means a single child being the owner and both parents registered as essential occupiers (terms and conditions apply).

You, your father and his spouse form the family nucleus recognised by the HDB in allowing your father to transfer the flat to you in your sole name.

Only persons aged 35 and above can own a flat wholly in their own name under the singles scheme.

To err on the side of caution and in order not to breach HDB rulings, as registered occupiers of your flat, your father and his spouse are advised to live in your flat.

When your father dies, how his assets are distributed will depend on whether he had made a will or not.

If he did, all his assets including his savings, shares and car, will be distributed to the beneficiaries named in his will.

If he did not make a will, all his assets will be distributed according to the rules of distribution under Section 7 of the Intestate Succession Act.

Assuming you are the only child, your father's spouse will be entitled to half of his estate and you will be entitled to the other half.

If your father has CPF monies and he made a valid CPF nomination, his CPF savings are not covered under his will even if he did make one.

The CPF nomination takes precedence over his will.

If your father and his spouse divorce, the court will distribute all your father's assets on an equitable - in other words, fair - basis.

If your father's wife wants to make a claim against your father's assets, she must prove to the court that she has contributed financially and/or non-financially, to the acquisition of the assets.

An example of non-financial contribution is when a wife decides to be a housewife, thus allowing her husband to work and earn money to acquire assets.

Another example is when a spouse assists in the other spouse's business, without salary, to help it grow. There is no exhaustive description of such non-financial contributions.

For scenarios of foreign brides from matchmaking agencies who cannot prove any financial or non-financial contribution at all during a short marriage, it may be that the court would award them very little or even no share of their husbands' assets.



Kim Cheong
Partner
Low Yeap Toh & Goon

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Advice in this column is not meant as a substitute for comprehensive financial advice. E-mail questions to chanteik@sph.com.sg