



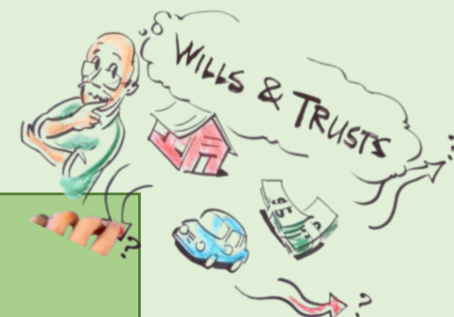
THE REDEEMED CHRISTIAN CHURCH OF GOD

Christ The Lord Parish

March 8th, 2026

WILLS AND TRUSTS

Morning Dew



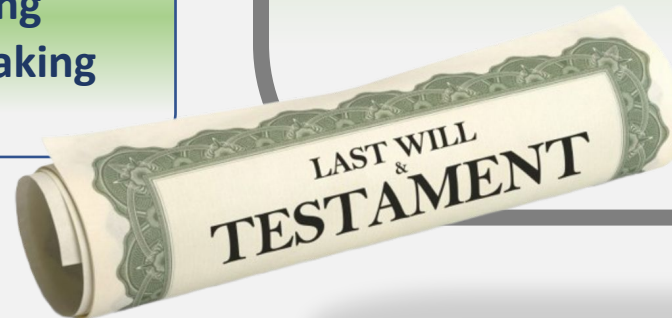
Introduction

- ❑ Many people are scared to talk about making a Will because of the wrong notion often held that making a Will implies a consideration of imminent death.
- ❑ This is a wrong notion. Many people who made their Will at an early stage of their life still lived for several years thereafter.
- ❑ Besides, a Will can be amended as many times as the testator wishes either by withdrawing the old one and substituting another or making a codicil.

WHAT IS A WILL?

A **Will** can simply be described as a document made by a person in their lifetime, setting out **instructions** on how their **properties, assets, and affairs** should be **managed** and **distributed after their death**.

- ✓ The **maker** of the Will is called the **TESTATOR**, if a **man**, or **TESTATRIX** if a **woman**.



CONTENTS OF A WILL

A Will can be used to give a variety of instructions, ranging from the distribution of assets, expression of displeasure with certain relatives or friends, and appreciation of people who had done good to the testator.

It is also used to express the testator's wishes regarding their burial arrangements.

EFFECTIVE DATE OF A WILL

A Will is ambulatory, which means that it can only take effect after the death of the testator. This is also the position in the scriptures.

Hebrews 9:16-17 says: ¹⁶**Now when someone leaves a Will, it is necessary to prove that the person who made it is dead.** ¹⁷**The Will goes into effect only after the person's death. While the person who made it is still alive, the Will cannot be put into effect.**

In Nigeria, to apply for probate to prove a Will, the applicant must produce the death certificate of the deceased.

APPOINTMENT OF EXECUTORS

- * It is necessary to appoint Executors. The Executors should be trusted persons. They could be male or female. Female Executors are called Executrix or Executrices.

- * Probate will only be granted to a maximum of four Executors.

- * Where there are beneficiaries that are minor, probate will be granted to a minimum of two Executors.

- * A corporate institution can also be appointed as an Executor.

FORMALITIES OF A WILL

1. A Will must be signed by the testator (or by another person in the presence and at the direction of the testator) in the presence of at least two witnesses who must be present at the same time.
2. The witnesses too must attest and sign the Will.
3. Witnesses to a Will and their spouses are not permitted to take benefits under the Will.
4. Executors can however be beneficiaries under the Will.
5. The testator must be of a sound mind at the time of making the Will.
6. The Will must be made freely and voluntarily, and not as a result of undue influence, fraud, duress, or coercion, otherwise it may be invalidated.

DISPOSAL OF ASSETS BY WILL

1. A person is at liberty to dispose by his Will any property or assets which the testator owns at the time of his death.
2. The exception to this rule is where the testator is subject to any Customary Law under which such property cannot be freely disposed of by Will by him.
3. If a testator dies and fails to make financial provision for their spouse, such spouse, whether husband or wife, as the case may be, can apply to the court for reasonable financial provision to be made for them out of the estate. Reasonable financial provision is defined as such financial provision as it would be reasonable in all the circumstances of the case for the husband or wife to receive for their maintenance.
4. Properties and assets not specifically given out in the Will are referred to as residuary estate.



WHY IS IT NECESSARY TO MAKE A WILL?

- To avoid controversy as to beneficiaries, dispute, or litigations.
- To ensure that the right person gets what the testator intended to give to them.
- To ensure that the assets of the testator do not fall into wrong hands.
- To provide for the special needs of some persons who are of special interest to the testator.
- To make charitable gifts.

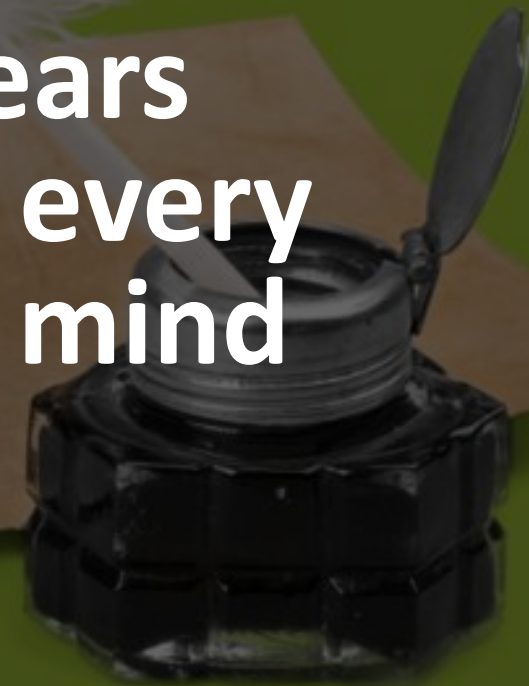


WHO CAN

MAKE A

WILL?

A person under the age of 18 years cannot make a Will, otherwise, every other person who is of a sound mind can make a Will.





- A Will can be made at any time once the person has attained the age of 18 years.
- It is however better to choose a time when a person is emotionally stable.
- It is not advisable to make a Will when there is disharmony in relationships, particularly in the family.



REVOCATION OF WILL BY MARRIAGE

- A Will is deemed revoked if the testator subsequently gets married other than under customary law.
- But if a person gets married under customary law to a woman, makes a Will thereafter, and then subsequently gets married under the Marriage Act to the same woman, such a Will remains valid and in full force.

CONSEQUENCES OF FAILURE TO MAKE A WILL

A person who dies without making a Will is said to have died intestate.

Upon the death of such a person, Letters of Administration will, upon application to the probate registry, be granted to the personal representatives of the deceased.

The distribution of the estate of the intestate will be made subject to the provisions of the applicable statute or customary law to which the intestate was subject.

TRUSTS

A **Trust** is an arrangement under which a person, called the settlor, transfers property to another person, called the trustee, to hold and manage for the benefit of a third party, called the beneficiary, or for a specified purpose.

ESSENTIALS OF A TRUST

For a trust to be valid there must be:

- ***Certainty of intention***: that is, a clear intention to create a trust.
- ***Certainty of subject matter***: the property subject to the trust must be clearly identified.
- ***Certainty of Objects***: the beneficiaries of the trust must be clearly identifiable.

DIFFERENCE BETWEEN A WILL AND A TRUST

- Whereas a Will can only take effect after the death of the testator, a Trust, on the other hand, can take effect either during the lifetime or after the death of the settlor.
- A Trust, if it is not made irrevocable, can be revoked during the lifetime of the settlor.
- A Trust does not require probate to be granted before being executed, so, there are no probate expenses.
- The Trustee(s) begin to manage the property from the effective date of the Trust.
- A Trust can continue for many generations.

GIFT INTER VIVOS

A **gift *inter vivos*** is a voluntary transfer of property by one person during their lifetime to another person without payment of money consideration.

- It is fashionable today for parents to give out their properties to their children by way of gift *inter vivos* when they are advanced in age.
- One advantage of gift *inter vivos* is that it avoids rancour or dispute as to inheritance.

CONCLUSION

Eccl 2:18-20 NLT

¹⁸ I came to hate all my hard work here on earth, for I must leave to others everything I have earned. ¹⁹ And who can tell whether my successors will be wise or foolish? Yet they will control everything I have gained by my skill and hard work under the sun. How meaningless! ²⁰ So I gave up in despair, questioning the value of all my hard work in this world.



- *There have been stories of siblings quarrelling over their father's assets shortly after their father's death.*
- *In other instances, there have been cases of brothers and sisters of a deceased man going to fight the deceased's wife over his assets even before the man was buried!*
- *That is why it is advisable to enjoy your wealth and possessions while you are alive and then make a Will or gift inter vivos of what is left.*
- *The choice as to which method to employ would depend to a large extent on the size of the estate, the family situation, and other relevant exigencies.*

The End