

Can I get money back?

Q I gave my partner £40,000 to buy a bed and breakfast business. The money came from the sale of my house in Majorca. We lived together for 10 years and had two children, but we have now separated. Is there any way I can get this money back?

A Assuming that your partner still owns the business it's possible that you will be able to claim a share of it. You should see a solicitor urgently to register this claim as a charge against the premises so they can't be sold until the dispute has been resolved. If you can provide evidence that you put your money into the purchase, the solicitor will start proceedings under the Trusts of Land and Appointment of Trustees Act 1996. This allows the court to pronounce on the true ownership and give the applicant whatever percentage of the value it feels is appropriate. If the B&B also provides a home for your

children you may have to be prepared to wait for your money however.

All for one

Q Our parents lived apart for many years, although they were not divorced. Of the three sons, one kept in touch with the father while the other two kept in touch with mother. My father died two years after my mother, having made a will leaving his estate to just one of his three sons. Is that legal? The house was in his name only. What would have happened if he hadn't made a will?

A If your mother had outlived your father she would have had a claim on his estate, since they weren't divorced, even though your father had made a will leaving everything to one of the sons. But since she died first anything they jointly owned will have gone to your father. So

even if the house had been in joint names it would have become his outright on her death. The sons who have been left out of his will probably have no claim on his estate unless he was supporting them financially when he died. If he hadn't made a will his estate would have been split equally between his children.

Buying a high rise

Q I bought a leasehold flat in a high rise building 15 years ago. The lease is for 107 years. All the residents in the block have now received a letter from the owners saying they are putting the building up for auction. Will the lease still be valid if new owners take over? What will be our position if the new owners want to demolish the flats and redevelop the site?

A Your leases give you the right to live in your flats for the full length of the

term no matter who takes over ownership of the building. Assuming there's no 'break clause' in your lease, the only circumstance in which you could be forced to move would probably be where the building was the subject of a compulsory purchase order.

Under the 1987 Landlord and Tenant Act you may well have the right of first refusal to buy the freehold of the block yourselves, and I suggest you form a committee to consider this and have a valuation carried out.

The law in this area is quite complicated so you should also see a solicitor.

Not to be trusted

Q My uncle died recently and in his will appointed me and my brother as executors. He left some money to our nephews and nieces, aged between eight and 20, 'to be held in trust until 25 years of age'. Can we override this by



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asking parents and guardians for their written agreement to our releasing the funds now on the understanding that the money is for the children?

A If you do this and the children don't get the money when they reach 25 they will be asking you, not their parents and guardians, for their legacies.

Bear in mind that, within the next 17 years (when the youngest reaches 25) his or her parent or guardian may have died, divorced or gone bankrupt. If the sums are trivial, common sense may have to

prevail. Otherwise I suggest you open a bank account for the trust fund with a view to investing the money and preferably see a solicitor.

Lost deeds

Q The bank appears to have lost the deeds to a house which was awarded to my daughter in a divorce settlement. Can she apply to the Land Registry for the deeds? Of course without them she won't be able to sell the property.

A If the house is registered at the Land Registry – and most now are – the deeds themselves are of little value. If your daughter has a copy of her court order awarding her the house an application can be made to the Land Registry to alter the ownership details without requiring to see the deeds.

If the house isn't registered then the process of proving ownership is more complicated, but a solicitor should be able to sort this out without any great difficulty. The bank should reimburse your daughter for any losses she has incurred through their negligence.