

Ownership for Married Couples **Second Marriages**

By Casey Neuman, Esquire

It's interesting to note how frequently the survivor of a good, long marriage will remarry one to five years after the death of the first spouse. It's also quite common for the spouses of a second marriage to enter into an antenuptial (pre-marital) agreement. This is particularly true where one or both of the spouses have children by the first marriage. By statute, Pennsylvania law recognizes the validity of antenuptial agreements so long as they are executed with the proper formalities and disclosures of assets are made. Pursuant to such agreements, assets are generally held in three categories: his, hers, and theirs.

The assets each brings to the marriage are generally retained in the individual name of the spouse, while the assets acquired and used by both spouses, such as a new home or tangible personal property, are typically purchased in the joint names of the couples.

Not only will the antenuptial agreement provide a roadmap for property ownership during marriage, it will also make provisions for the eventual death of each spouse. The obligation of generally the wealthier spouse to provide for the survivor is typically coupled with wills and trusts for the benefit of second spouse, while protecting his or her own children.

While antenuptial agreements also provide for the possibility of divorce, I've been surprised by the fact that in my practice where I've written dozens of such agreements between widowed spouses, not one of the ensuing marriages has, to my knowledge, ended in divorce. The fact that couples can resolve all foreseeable financial issues before their marriage means that such issues do not become the source of antagonism afterwards.

Perhaps more importantly, the antenuptial agreement allows the children of the first marriage to focus on the happiness of their parent without the concern of losing their possible inheritance.

Finally, although this article discusses antenuptial (or pre-marital) agreements, couples who have already wed can sign a valid post nuptial agreement that will define their rights and obligations in the event of a divorce or death.

**ROTHMAN
GORDON**
Just Right

Rothman Gordon P.C.
Attorneys At Law
310 Grant Street
Third Floor, Grant Building
Pittsburgh, PA 15219
phone 412.338.1110
fax 412.281.7304
www.rothmangordon.com

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