

Investment in French Property

Increasingly, more and more UK businessmen and women looking for another angle on investments are choosing to venture into the French property market with a view to obtaining potentially better returns and at the same time benefit from the fun of owning a holiday home which they and their family can use from time to time. Often, these purchases are made with another UK business partner or partners and in this case the position in the event of one of the owners dying whilst owning the property in France needs to be carefully considered, both from the family perspective and the position of the surviving business partner(s).

At the outset, it is important to get expert professional advice as to the best structure to be adopted for the ownership of the property and at the same time find a solution which will ensure that the inheritance arrangements are dealt with in the most tax efficient and appropriate way. This advice will be given having consideration in particular to the French succession law applicable to owners of property in France. The law relating to succession and inheritance tax in France is very different from that in England and if the property is held in personal names, French law will govern the position in the event of a death or a gift of the property.

It is important to be aware that even if you die domiciled in England, your French real property will be subject to the rules of French succession law which essentially provide that children automatically inherit part of their parent's estate. You cannot in France disinherit your children.

The Civil Code imposes limits upon how much may be left by Will to a particular person. Certain members of your family, such as parents and children, (**BUT NOT SPOUSES**), have an absolute right to inherit certain parts of your assets. The part which must go to these members of the family is called the legal reserve (*réserve légale*) and the persons so entitled are reserved heirs (*héritiers réservataires*).

Note that neither wives nor husbands, nor brothers nor sisters, are reserved heirs.

Once the reserved portion of the Estate has been calculated, the remaining portion is freely disposable to the spouse or any other person. The reserved portion of the Estate will vary according to the number of children:

one half of the estate of the deceased parent if only one child

two thirds to be shared equally of the estate of the parent if there are two children

three quarters to be shared equally if there are three or more children

This means that the freely disposable portion will be one half, one third, and one quarter as the case may be.

If there are no children then parents i.e. father and mother are reserved heirs. If both mother and father are living each will benefit from one quarter of the deceased's estate. If only one parent is living, then he or she is entitled to one quarter.

French Inheritance Law can leave English owners of French property in a difficult position. This is especially true where there is a dispute between children and parents, where a husband or a wife or both have children by a previous marriage as is often the case or where the children are minors.

The rules set out above will apply to each business partner who owns a percentage of the property in his own name and therefore the surviving business partners can be left owning the property jointly with the children of the predeceased business partner and possibly his widow.

In order to protect their position in the event of a death of one of the business partners, it is possible under French law to enter into an agreement whereby the heirs of the predeceasing business partner can be required to sell their share in the property to the remaining partners. This is called a *convention d'indivision* and is governed by the French Civil Code.

A Will should also be in place to deal with the succession to the property, taking into the account the rules of French succession law and this can either be a separate Will dealing with the French property or form part of the English Will dealing with the whole of the estate. It is often simplest to draft a short handwritten Will to deal with the succession to the French property and for the English Will to be amended to exclude the French property.

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