

Piraeus, 20th February 2007

Ms. Vanessa Varga
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Adelaide,
South Australia 5001

Dear Sirs,

Estate of Erini Stiliano deceased

With reference to recently exchange correspondence on the above matter, we hereby set out a summary of the Greek law position on the issues raised by you.

1. Does the land pass into the estate and then on to the beneficiaries or does it pass direct to the beneficiaries?

Inherited property passes direct to the beneficiaries once they have executed an “acceptance of inheritance notarial deed”. The registration of this deed at the land registry constitutes proof that the beneficiary is the owner of the property.

2. The Will provides that payment of debts and testamentary expenses is to occur before any distribution to the beneficiaries. Is the land in Greece accessible to pay estate administration debts incurred in Australia.

The cooperation of the beneficiary is ordinarily and in practice required to pay debts and expenses for the proceeds of sale. The executor of the Will may however apply for a Greek Court Order to sell estate property for the purpose of paying such debts and expenses.

3. What the Greek law is concerning incomplete gifts. If the donor of a gift dies before completing a gift, will equity perfect the gift after the death of the donor or does the gift fail?

There are no specific provisions under Greek law on incomplete gifts in circumstances which you have described. From the facts presented it would appear that all the disputed land forms part of the residuary estate. It may be noteworthy to add that in the case in point, had the Will been subject to Greek law, it would have been pertinent to investigate whether the circumstances warranted endeavouring to have the Will annulled on the grounds that it does not contain the true wishes of the deceased. In other words we would approach the matter from the perspective of the inequity arising from the execution of a Will which was made on wrong assumptions and in anticipation of certain future actions which never took place.

4. In relation to land holdings, do you have a system whereby an interested person can block any land dealings concerning a piece of land? In Australia, interested parties can lodge a caveat at the Land Titles Office to block any dealings with land in which they have an interest. The caveat also notifies the world of that person's interest in the same.

Any person having an interest in preventing the sale or transfer of property situated in Greece, may apply to the Greek Court to prevent such sale or transfer. In the case in point such an application would be based on the executor's claim for estate debts etc., or on the deceased's children's claim for a share in the estate. In order to have reasonable chances of succeeding in any application by the executor, it would be necessary to show that the petitioner has a prima facie valid claim and in this connection it would be necessary to have Australian law legal opinion on the pertinent points and to have a properly quantified claim detailing each item making up the overall claim. It would also be necessary for ordinary proceedings in relation to the subject claim to be filed with the Australian Court within 30 days of such Greek order being granted. In the case of an application filed by the deceased's children claiming a share in the estate, proceedings in this regard must have already been filed with the Australian Court prior to making such application to the Greek Court.

5. Philip is now in Greece and has some of the disputed Certificates of Title in his possession. If we assume that Philip is going to try and transfer this land to himself (ie accept his alleged inheritance), can he transfer or sell the land without an exemplification of probate?

Once the grant of probate is registered with the Greek Court, the beneficiary (Philip) shall be in a position to make payment of any inheritance taxes concerning the Greek land, accept the inheritance, register the “acceptance of inheritance” notarial deed with the land registry and then proceed to sell the property should he wish. This however does not prevent the executor from having a valid claim against the beneficiary in respect of any estate debts and other expenses and further to enforce any judgment debt against the property.

6. Can a person transfer or sell land if they do not have the original Certificate of Title?

Yes. It should be noted that the original Certificate of Title is always and without exception kept by the Greek notary who drew up the deed and before whom it was executed. Possession of an official copy of the Certificate of Title (which is loosely considered as an original document) does not prove ownership.

Finally take note that the issuer of this preliminary advice is a Greek qualified lawyer, registered with the Athens Bar Association under reference no. 16785 The issuer of this advice has experience in and has practised in various general areas of law, including inheritance law, since qualification in 1994.

Yours Faithfully,

Niki Pantazis

PANTAZIS – KANELLOPOULOS & PARTNERS