

LAST WILL AND TESTAMENT

What is a Will?

A Will is an act whereby a person is permitted, with the formalities prescribed by law, to control to a certain extent degree the disposition of his estate, to take effect after his death. (Art. 783, New Civil Code, Phil.)

There are basically two kinds of Will, namely, 1.) Notarial Will; 2.) Holographic Will.

Why do I need a Will?

A will allows you, instead of state law, to decide who will receive your assets after you die. If you don't have a Will, your estate will be distributed as required by the Probate Code. If there is no estate plan, usually your nearest relatives will inherit the state. Perhaps you would have wanted it this way, but if you wanted to make a gift to other relatives, to someone outside of the family, or to a charity, it won't happen unless you had a *estate plan*.

Holographic Will, under Art. 80 of the New Civil Code of the Philippines

“A person may execute a holographic will which must be **entirely written, dated, and signed by the hand of the testator himself**. It is subject to no other form, and may be made in or out of the Philippines, and need not be witnessed.”

Before a person may execute a Will, he or she must possess the following:

- a. That the testator must be at least 18 years of age, and;
- b. That he must be of sound mind. (*Art. 797 and 798, New Civil Code*)

HOLOGRAPHIC WILLS

One type of do-it-yourself will is the holographic Will, which **must be in the testator's handwriting (in other word, not typewritten or printed)**. It must be **signed by the testator**, but unlike other types of wills, **no witnesses are required**. A holographic will also should be dated, although this is not mandated by the Probated Code. Courts have been lenient in trying to interpret holographic wills when questions arise, but judges will not rewrite a holographic will to make it valid. A holographic will is probably the most risky do-it-yourself estate plan because of the lack of guidelines involved. The results can be so ambiguous and incomplete that a holographic will can cause more trouble for the estate than if the testator had no will.

FORMAT FOR BOTH HOLOGRAPHIC AND NOTARIZED LAST WILL AND TESTAMENT

KNOW ALL MEN BY THESE PRESENTS:

I, FATHER **YOUR NAME** of legal age, (Roman Catholic Priest), born on _____, a Filipino citizen and currently a resident of _____ with sound and disposing mind and memory, and without having been forced, intimidated or unduly influenced by anybody, have hereby voluntarily executed and proclaimed this instrument, as my Last Will and Testament:

That should I finally rest in eternal peace, it is my wish and desire that internment, vigil and burial be made in accordance with the customs and traditions of the Roman Catholic Archdiocese of Palo, with the decision of the Archbishop.

People I like/want to be immediately informed in case of my death: (with number and address)

1. _____
2. _____
3. _____
4. _____

1. That I am the owner of the properties in the following locations:

- 1.1. _____
- 1.2. _____
- 1.3. _____
- 1.4. _____
- 1.5. _____

2. That I have the following existing Bank Accounts:

- 2.1. _____
- 2.2. _____
- 2.3. _____
- 2.4. _____

3. That I have the following investments:

- 3.1. _____
- 3.2. _____
- 3.3. _____
- 3.4. _____

4. That should the Lord Almighty finally summon this soul from its earthly abode, it is my wish and desire to bequeath, grant and devise my properties above-mentioned, as follows:
 - a) To (name) _____, my (relationship) I hereby bequeath the properties listed as **nos.** _____ above;
 - b) To (name) _____, my (relationship) I hereby bequeath the properties listed as **nos.** _____ above;
 - c) To (name/s) _____, who has been my constant companion/s and/or caretaker/s in my illness, I hereby devise the property listed as **nos.** _____ above;
5. That my investments and my money in the bank will be given to _____.
6. That my car, my television, books, and vestments should be given to _____.
7. ***OTHER*** things you might want to include.
8. That should Divine Providence will it that I die ahead of my **beloved parents**, I hereby proclaim as my wish and desire which my heirs, devisees and legatees should respect, that the provisions of the foregoing **Par.4, Sub-Pars. a, b, and c**, be rendered temporarily without force and effect, and my **surviving parents** shall have full use and enjoyment of all the above-listed properties; and only upon both their demise shall the provisions of **Par. 4, Sub-Pars. a, b, and c, come into effect;**
9. That for the purpose of rendering this Last Will and Testament effective thru the proper proceeding in Court, I hereby name and constitute _____ as Executor and Administrator of this Last Will and Testament, and that in his incapacity, I hereby name _____ as his substitute;
10. That the Executor and Administrator I hereby nominate shall be excused from posting any bond;
11. That I hereby revoke, set aside, and annul any other will or testamentary disposition I have made, signed, or proclaimed.

IN WITNESS WHEREOF, I have hereunto set my signature this _____ at _____, Philippines.

Signature TESTATOR over printed name

(Stop here, if you preferred to make a Holographic type. Proceed and include the next part if you wanted the Notarial type.)

ATTESTATION CLAUSE

WE, the undersigned witnesses, do hereby affirm that the foregoing is the Last Will and Testament of _____ and we hereby certify: That (he/she) executed the same while of sound and disposing mind and memory; That he signed the same in our presence, at the bottom of the last page and on the left-hand margin of each and every page, and we, at his behest, have signed hereunder and on the left-hand margin of each and every page, in (his/her) presence, in the presence of the Notary Public, and in the presence of each and every one of us this _____ at _____ Philippines.

WITNESS	ADDRESS
1. _____	_____
2. _____	_____
3. _____	_____

REPUBLIC OF THE PHILIPPINES)
Province of _____) S.S
City/Municipality _____)
X-----X

BEFORE ME, A Notary Public, and in the presence of each and every one of us this _____ at _____, Philippines

ACKNOWLEDGMENT

BEFORE ME, a Notary Public for and in the (Province/City/Municipality) of _____, personally appeared the following persons, with their respective Community Tax Certificates as follows:

NAME	C.T.C. no	Date/place Issued
1. <u>Testator</u>		
2. <u>Witness</u>		
3. <u>Witness</u>		
4. <u>Witness</u>		

Known to me and to me known to be the same person who executed the foregoing Last Will and Testament, which he acknowledge to me to be (his/her) own free and voluntary act and deed and which (he/she) executed and signed in the presence of the three (3) above-named attesting witnesses, who all signed their names as proof of their attestation on this page before the Testator _____ and in the presence of each and every one of them, and they acknowledged the same to be their free and voluntary act and deed.

This Last Will and Testament consists of _____, (_____) pages, including the page on which the ratification and acknowledgment are written.

WITNESS MY HAND AND SEAL this _____ at _____, Philippines.

NOTARY PUBLIC

Doc. No. _____;
Page No. _____;
Book No. _____;
Series of _____;
_____;