



QUESTION OF MONEY

My father, a widower, passed away this year and left the family home equally to his six children. I am the executor of his will. A few years ago, my sister, who is the eldest, moved in with him. She didn't pay any rent but looked after my father in his old age. She is refusing to vacate the house so it can be sold and the proceeds split between us. My sister feels she is entitled to a right of residence after caring for my father. She also claims he vowed to leave the house solely to her. Does she have a right to stay in the home — and if not, do you have any advice on how to move forward so all six siblings receive their share of the house, as per my father's will?

EM, Dublin

As executor, you are entitled to make the decisions to carry out the terms of your father's will and you are accountable to the other beneficiaries. You would usually have the power to put the family home up for sale, ensuring all your siblings get their share of the proceeds. Yet there are various complexities here.

Your sister has said your father vowed to leave the entire house to her. While a verbal promise is hard to prove, your sister could claim a right on the basis of promissory estoppel, a legal doctrine that stops a person from going back on their word, even if a legal contract does not exist. If your sister can show she acted to her own detriment when she moved back into the family home to care for your father — such as giving up work and being financially worse off — this would also be a relevant factor.

However, the caring duties taken on by your sister don't in themselves give her a right of residence to the

home. This must be created by way of a deed, and is commonly granted in a will. If no such document exists, it is unlikely your sister is entitled to a formal right of residence. If she refuses to move out, as executor you may have to consider legal action to compel her to do so. The costs of this action would be borne by the estate, depleting the inheritance. This would also likely cause a breakdown in relationships within the family. In the worst-case scenario, your sister may challenge the will. This situation should be avoided if at all possible.

Given this complex case, you will need the advice of a good solicitor.

In a situation like this, it is vital to work to maintain family relations as amicably as possible. You should consult with your other siblings. Some may feel your sister deserves some recognition for the care she provided, while others want their inheritance as soon as possible. It may be worth exploring some form of family settlement. A good mediator may be able to help.

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