

16/4/06

## ▶ Outstanding debts still need to be paid upon death

WHEN someone dies, his outstanding debts still have to be paid, says lawyer Amolat Singh.

This is done through his estate, which constitutes all the assets owned by an individual at his death.

But his spouse or dependants are not liable unless they are his guarantor for the debts.

Mr Amolat says that a creditor will usually lodge a caveat on the estate. This causes the issue of the Grant of Probate or Letters of Administration — documents necessary for distributing the assets of the deceased to his beneficiaries — to be held up.

A creditor can usually be persuaded to withdraw the caveat by showing that there are sufficient funds to meet the debts.

But creditors may require an undertaking to pay the debts from the estate when the funds are available for distribution, adds Mr Amolat.

Specifically, what if someone dies with an outstanding mortgage that exceeds the market value of the property?

“If the deceased is the sole borrower, the bank would usually want to sell the property itself and

look to the estate for the balance,” says Mr Amolat.

If the home is not in negative equity, and there is a positive balance after paying the bank, the bank may allow the personal representatives of the deceased to sell the property, he says.

These representatives — who are executors of the deceased’s will, or administrators, in the absence of a will — will have to undertake to hand over the sale proceeds to the bank.

“If there is a joint borrower, that person may negotiate with the bank and continue paying the monthly mortgage,” he adds.

It is the same for a car loan and a car which is in negative equity.

And similarly for credit card debt. Credit card companies will lodge a caveat and the final grant will be held up until the debt has been settled or an arrangement is entered into with the creditor, says Mr Amolat.

What if the deceased’s estate does not have sufficient resources to pay all debts?

Well, the creditors will just have to write off the debts, he adds.



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