

TITLE 25
ESTATES AND TRUSTS

Chapter 1
Wills

- § 101. Definitions.
- § 102. Capacity to make will; limitation on disposition of property.
- § 103. Wills made under customary or prior written law.
- § 104. Witnesses.
- § 105. Execution.
- § 106. Holographic will.
- § 107. Nuncupative will.
- § 108. Wills executed outside the Republic or under foreign law.
- § 109. Application.

§ 101. Definitions.

In this chapter:

- (a) “Person” includes either man or woman, single or married, and each masculine pronoun includes the corresponding feminine pronoun.
- (b) “Will” includes codicil.

Source

(Code 1966, § 345.) 13 TTC § 3, modified.

Notes

Ysaol v. Eriu Family, 9 ROP 146, 148 (2002).
Rebelkuul v. Techur, 5 ROP Intrm. 79, 81 (1995).

§ 102. Capacity to make will; limitation on disposition of property.

Any person of sound mind eighteen (18) years of age or older may make a will in accordance with the provisions of this chapter, but such will may only dispose of property which at the time of death the testator has a right to dispose of without the consent of any other person or any official.

Source

(Code 1966, § 344.) 13 TTC § 1.

Notes

Rengulbai v. Children of Elibosang Eungel, 2019 Palau 40 ¶ 8.

In re Armaluuk, 10 ROP 75, 79 (2003).

Ysaol v. Eriu Family, 9 ROP 146, 148 (2002).

Estate of Ngirausui, 5 ROP Intrm. 339, 340-41 (Tr. Div. 1996).

Rebelkuul v. Techur, 5 ROP Intrm. 79, 81 (1995).

§ 103. Wills made under customary or prior written law.

Nothing in this chapter shall prevent the making of a will in accordance with the customary or prior written law of the Republic, nor shall anything in this chapter affect the validity of a will made in accordance with such customary or written law.

Source

(Code 1966, § 344.) 13 TTC § 2, modified.

Notes

In re Rudimch, 16 ROP 289, 290, 291 (Tr. Div. 2009).

Rebelkuul v. Techur, 5 ROP Intrm. 79, 81 (1995).

§ 104. Witnesses.

(a) Any person competent to be a witness generally in the Republic may act as attesting witness to a will.

(b) No will is invalidated because attested by an interested witness, but any interested witness shall, unless the will is also attested by two disinterested witnesses, forfeit so much of the provisions made for him therein as in the aggregate exceeds in value, as of the date of the testator's death, what he would have received had the testator died intestate.

(c) No attesting witness is interested unless the will gives to him some personal and beneficial interest.

Source

(Code 1966, § 346.) 13 TTC § 4, modified.

Notes

Rebelkuul v. Techur, 5 ROP Intrm. 79, 81 (1995).

§ 105. Execution.

The execution of a will under this chapter, other than a holographic or nuncupative will, must be by the signature of the testator and of at least two witnesses as follows:

- (a) The testator shall signify to the attesting witness that the instrument is his will and either himself sign, or acknowledge his signature already made, or, at his direction and in his presence, have someone else sign his name for him. In any of the above cases the act must be done in the presence of two or more attesting witnesses.
- (b) The attesting witnesses must sign in the presence of the testator and in the presence of each other.

Source

(Code 1966, § 347.) 13 TTC § 5, modified.

Notes

Tkel v. Ngiruos, 12 ROP 10, 13 (2004).
Estate of Ngirausui, 5 ROP Intrm. 339, 340, 342 (Tr. Div. 1996).
Rebelkuul v. Techur, 5 ROP Intrm. 79, 80-81 (1995).

§ 106. Holographic will.

A holographic will is a will in the handwriting of the testator. A holographic will may be made under this chapter without any witness, but the signature and all its material provisions must be in the handwriting of the testator and his handwriting must be proved by two witnesses.

Source

(Code 1966, § 348.) 13 TTC § 6.

Notes

Rebelkuul v. Techur, 5 ROP Intrm. 79, 81 (1995).
Estate of Edui, (Tr. Div. 580-89, Dec. 1990).
Ngiruhelbad v. Merii, 2 TTR 631 (App. Div. 1961).

§ 107. Nuncupative will.

- (a) A nuncupative will is an oral will. A nuncupative will may be made under this chapter only by a person in imminent peril of death, whether from illness or otherwise, and shall be valid only if the testator dies as a result of the impending peril. A nuncupative will must be:

- (1) declared to be his will by the testator before two disinterested witnesses; and
- (2) submitted for probate within six months after the death of the testator unless the court, for good cause, permits it to be submitted later.
- (b) A nuncupative will made under this chapter may dispose of personal property only, and to an aggregate value not exceeding one thousand dollars (\$1,000).
- (c) A nuncupative will made under this chapter neither revokes nor changes an existing written will.

Source

(Code 1966, § 349.) 13 TTC § 7.

Notes

In re Rudimch, 16 ROP 289, 290 (Tr. Div. 2009).
Diaz v. Children of Merep, 11 ROP 28, 30 (2003).
Rebelkuul v. Techur, 5 ROP Intrm. 79, 81 (1995).
Ikeya v. Melaitau, 3 ROP Intrm. 386, 387 (Tr. Div. 1993).
Estate of Debelbot, 3 ROP Intrm. 364, 369 (Tr. Div. 1990).
Souwelian v. Kadarina, 5 TTR 14 (1970).

§ 108. Wills executed outside the Republic or under foreign law.

A will executed outside the Republic in a manner prescribed by this chapter, or a written will executed in a manner prescribed by the law of the place of its execution or by the law of the testator's domicile at the time of its execution, shall have the same force and effect in the Republic as if executed in the Republic in compliance with the provisions of this chapter.

Source

(Code 1966, § 351.) 13 TTC § 8, modified.

Notes

Rebelkuul v. Techur, 5 ROP Intrm. 79, 81 (1995).

§ 109. Application.

This chapter shall not apply to wills executed in the Republic before the date this chapter takes effect.

WILLS

25 PNCA § 109

Source

(Code 1966, § 351.) 13 TTC § 9, modified.

Notes

Rebelkuul v. Techur, 5 ROP Intrm. 79, 81 (1995).

Chapter 2
Settlement of Estates of Limited Value

- § 201. Complaints for transfer of decedent's personalty to beneficiaries and creditors; when authorized.
- § 202. Same; contents.
- § 203. Order of transfer; procedure if transfer withheld.
- § 204. Procedure if debts exceed value of assets.
- § 205. Responsibility of transferee.

§ 201. Complaints for transfer of decedent's personalty to beneficiaries and creditors; when authorized.

(a) When a decedent leaves personal property, including, but not limited to, cash, bank or other accounts, wages or salary due, shares of stock or other interest in any business enterprise, and goods and chattels of any nature, of a total value not exceeding \$1,000.00, and known debts, if any, of less than that amount, and the person or persons entitled to the personal property left by the decedent cannot readily obtain possession thereof, then the surviving spouse, any adult child (including an adopted child), either parent, any brother or sister, the eldest brother of the decedent's mother, or the head of the lineage of the decedent may file a sworn complaint in the Trial Division of the Supreme Court or National Court, or, if the total value of the personal property does not exceed \$100.00, in the Court of Common Pleas, asking the issuance of an order that such personal property be transferred to the complainant.

(b) If none of the persons named in subsection (a) files such complaint within 90 days of the death of the decedent, then any creditor of the decedent may file a sworn complaint as set forth herein.

Source

(Code 1966, §343(a).) 13 TTC § 51, split into two subsections and modified.

Notes

Nenjir v. Rilau, 4 TTR 277 (1969).

**SETTLEMENT OF ESTATES OF
LIMITED VALUE**

25 PNCA § 203

§ 202. Same; contents.

Such sworn complaint shall set forth:

- (a) the name, residence and date of death of the decedent;
- (b) the names and addresses of the surviving spouse, children, brothers and sisters of the decedent, and of the eldest living brother of decedent's mother, or, if none of the above persons survived the decedent, the name, address, and relationship of the nearest surviving relative;
- (c) the total value of the personal property;
- (d) the property, if any, that passed or is to pass by will, and to whom it went or is to go;
- (e) the promise of the complainant to pay, as far as the assets of the estate permit, the debts of the decedent, or to see that the debts are paid by someone authorized by local custom, and to distribute the balance, if any, to the person or persons entitled thereto.

Source

(Code 1966, § 343(b).) 13 TTC § 52, reorganized into subsections and modified.

§ 203. Order of transfer; procedure if transfer withheld.

- (a) Upon the filing of such complaint, if it appears to the court that the ends of justice will be served, the court may issue an order, either without notice or after such notice as it deems proper, directing the transfer of the personal property to the complainant, or to such other person as the court deems proper, and directing that the transferee pay, as far as the assets of the estate permit, the debts of the decedent, or see that they are paid, and then distribute the balance, if any, to person or persons entitled thereto.
- (b) Whoever transfers money or other property to the complainant, or to any other person appointed by the court as set forth in subsection (a), shall incur no liability thereby, nor shall such person thereafter be held to account for the same to any person.
- (c) Any person upon whom demand is made to transfer money or other property under the terms of such order who denies the right of the complainant or other transferee to receive the same shall, within 10 days of the demand being made upon him to transfer such money or other property, file his answer in the same court that issued the order,

setting forth the grounds that entitle him to retain possession thereof. Upon the filing of such answer, the court shall, after notice to the complainant or other transferee, set the matter for hearing and make such finding and enter such further order as the ends of justice require.

Source

(Code 1966, § 343(c).) 13 TTC § 53, reorganized into subsections and modified.

§ 204. Procedure if debts exceed value of assets.

If the transferee finds, after the receipt of the personal property under such order of transfer, that the debts of decedent do in fact exceed the value of the property received, he shall make no further distribution of the same, but shall at once report the facts to the court that issued the order, setting forth the money and other personal property received, the disbursements he has already made, the names and addresses of the recipients of the property already disbursed and the reason therefor, and shall list all known debts of decedent, including those that have recently come to the transferee's attention. The transferee shall take no further action save by order of the court.

Source

(Code 1966, § 343(d).) 13 TTC § 54.

§ 205. Responsibility of transferee.

The transferee shall be personally responsible for any property received by him under any order issued pursuant to this chapter, and any party claiming an interest in such property may, after demand, maintain an action against the transferee; provided, that no such action shall be brought against the transferee after two years from the date of the order under which the property was transferred to him.

Source

(Code 1966, § 343(e).) 13 TTC § 55.

**Chapter 3
Inheritance**

§ 301. Inheritance of land held in fee simple.

§ 301. Inheritance of land held in fee simple.

Land now held in fee simple or hereafter acquired by individuals may be transferred, devised, sold or otherwise disposed of at such time and in such manner as the owner alone may desire, regardless of established local customs which may control the disposition or inheritance of land through matrilineal lineages or clans.

(a) In the absence of instruments and statements provided for in [39 PNCA § 403(b)], lands held in fee simple, which were acquired by the owner as a bona fide purchaser for value, shall, upon the death of the owner, be inherited by the owner's oldest legitimate living male child of sound mind, natural or adopted, or if male heirs are lacking the oldest legitimate living female child of sound mind, natural or adopted, of the marriage during which such lands were acquired; in the absence of any issue such lands shall be disposed of in accordance with subsection [(b)] hereof.

(b) If the owner of fee simple land dies without issue and no will has been made in accordance with this section [or 39 PNCA § 403] or the laws of the Republic or if such lands were acquired by means other than as a bona fide purchaser for value, then the land in question shall be disposed of in accordance with the desires of the immediate maternal or paternal lineage to whom the deceased was related by birth or adoption and which was actively and primarily responsible for the deceased prior to his death. Such desires of the immediate maternal or paternal lineage with respect to the disposition of the land in question shall be registered with the Clerk of Courts pursuant to [39 PNCA § 403(a)].

(c) Any person or persons having knowledge of the transfer or devise of lands as set forth in this section [or 39 PNCA § 403] who fails to testify to such knowledge before the nearest governor, upon being called to do so or within thirty (30) days of receiving such information relating to the death of an owner and the devise of his land, shall be guilty of a violation of this section and shall, upon conviction thereof, be imprisoned for not more than one (1) year, or fined not more than one thousand dollars (\$1,000), or both.

Source

(Res. 28-57, 12-16-59; rescinds Res. 8-55.) PDC § 801, § 801(c) and (d) amended by PL 5-3S-2 § 1, modified.

Notes

Previously codified at 39 PNCA § 102(c), (d) and (e). See also 39 PNCA § 403 for former 39 PNCA § 102(a) and (b). In subsection (a), the bracketed “[39 PNCA § 403(b)]” originally read “subsection (b) above” and the bracketed “[subsection (b) hereof]” previously read “subsection (d) hereof.” In subsection (b), the bracketed “[39 PNCA § 403(a)]” originally read “subsection (a) of this section.” In subsections (b) and (c), the bracketed “[or in 39 PNCA § 403]” was added by the Code Commission.

- Robert v. Ngirngemeusch, 2023 Palau 5 ¶¶ 8, 9, 12.
Wertz v. Titiml, Ernest, & Taima, 2022 Palau 26 ¶¶ 10, 11, 12, 17.
Oiwerang Lineage v. J. Techur, 2022 Palau 4 ¶¶ 7, 8, 10.
Robert v. Robert, 2021 Palau 34 ¶ 18.
Leleng Lineage v. Rekisiwang, 2020 Palau 5 ¶¶ 6, 10, 16, 19, 23.
Rechesengel v. Lund, 2019 Palau 32 ¶¶ 22, 23.
Tellei v. Children of Kinsiana Bechtel, Erica Elechuus, and Mariana Wong, 2018 Palau 28 ¶¶ 7, 8.
Techur v. Telungalk ra Techur, 2018 Palau 12 ¶¶ 16, 17 n.1, 21.
Riumd v. Mobil, 2017 Palau 4 ¶ 25.
Nakamura v. Nakamura, 2016 Palau 23 ¶¶ 37, 39.
Baules v. Toribiong, 2016 Palau 5 ¶ 8.
Fritz v. Materne, 23 ROP 12, 15, 18 (2015).
In re Estate of Tellames, 22 ROP 218, 221, 222, 225, 227 (Tr. Div. 2015).
Kee v. Ngiraingas, 20 ROP 277, 279, 281, 283, 284, 285 (2013).
Omelau v. Saito, 19 ROP 198, 199 (2012).
Tutii v. Ngiraulau, 19 ROP 184, 185 (2012).
Gabriel v. Children of Urrei Bells, 19 ROP 117, 119, 120 (2012).
Soalablai v. Swej, 19 ROP 51, 52, 53 (2012).
Temael v. Tobiason, 18 ROP 53, 55 (2011).
Telungalek Ra Itabera and Erellang v. Rubasch, 18 ROP 47, 49, 51, 52 (2011).
Idid Clan v. Demei, 17 ROP 221, 225, 227, 228 (2010).
Tengadik v. King, 17 ROP 35, 38 (2009).
In re Rudimch, 16 ROP 289, 309 (Tr. Div. 2009).
Ngetchab Lineage v. Klewej, 16 ROP 219, 220 (2009).
Marsil v. Telungalk ra Iterkerkill, 15 ROP 33, 34, 35, 36 (2008).
Koror State Pub. Lands Auth. v. Ngirmang, 14 ROP 29, 32, 35, 37 (2006).
Drairoro v. Yangilmaw, 14 ROP 18, 22, 23 (2006).
Nakamura v. Sablan, 12 ROP 81, 83, 84 (2005).
Tkel v. Ngiruos, 12 ROP 10, 12, 14, 15 (2004).
Bandarii v. Ngerusebek Lineage, 11 ROP 83, 84, 85, 86, 87, 88, 88A, 88B, 88C (2004).
Diaz v. Children of Merep, 11 ROP 28, 29 (2003).
Renguul v. Elidechedong, 11 ROP 11, 13, 14 (2003).
In re Armaluuk, 10 ROP 75, 79 (2003).
Delbirt v. Ruluked, 10 ROP 41, 42, (2003).
Ysaol v. Eriu Family, 9 ROP 146, 147, 148, 149, 150, 151, 152 (2002).
Smaderang v. Elias, 9 ROP 123, 124 (2002).
Tengadik v. Bitlaol, 9 ROP 120, 121 (2002).
Rengiil v. Otong Clan, 9 ROP 61, 62 (2002).
Temaungil v. Ulechong, 9 ROP 31, 32 (2001).
Dalton v. Borja, 8 ROP Intrm. 302, 303, 304 (2001).
Ngirumerang v. Tmakeung, 8 ROP Intrm. 230, 231 (2000).

INHERITANCE

25 PNCA § 301

- Tangadik v. Bitlaol, 8 ROP Intrm. 204, 206 (2000).
Mokoll v. Ngirbedul, 8 ROP Intrm. 114, 115 (2000).
Ngiralulk v. Children of Obiliou, 8 ROP Intrm. 32, 33 (1999).
Estate of Tellei, 7 ROP Intrm. 192, 195, 196 (1999).
Matchiau v. Telungalk ra Klai, 7 ROP Intrm. 177, 179 (1999).
Sebal v. Tengamd, 7 ROP Intrm. 149, 150 (1999).
Obak v. Bandarii, 7 ROP Intrm. 254, 256 (Tr. Div. 1998).
Siksei v. Toribiong, 7 ROP Intrm. 123, 124, 125 (1998).
Estate of Kemaitelong, 7 ROP Intrm. 94, 96 (1998).
Tarkong v. Mesebeluu, 7 ROP Intrm. 85, 88 (1998).
Lakobong v. Anastacio, 6 ROP Intrm. 178, 181 (1997).
In re Udui, 6 ROP Intrm. 154, 157 (1997).
In re Dengokl, 6 ROP Intrm. 142, 144 (1997).
Anderson v. Masami, 6 ROP Intrm. 321, 323 (Tr. Div. 1996).
Wally v. Sukrad, 6 ROP Intrm. 38, 40 (1996).
Estate of Ngirausui, 5 ROP Intrm. 339, 341 (Tr. Div. 1996).
Osarch v. Bai, 5 ROP Intrm. 327, 331 (Tr. Div. 1995).
Morei v. Ngetchuang Lineage, 5 ROP Intrm. 292, 292 (Tr. Div. 1995).
Wasisang v. Remeskang, 5 ROP Intrm. 201, 203 (1996).
Aguon v. Aguon, 5 ROP Intrm. 122, 129, 130 (1995).
Ngowakl v. Ngoakl, 5 ROP Intrm. 150, 151, 152, 153 (1995).
Ngiradiluch v. Nabeyama, 5 ROP Intrm. 117, 117, 118, 119, 120 (1995).
Rebelkuul v. Techur, 5 ROP Intrm. 79, 80 (1995).
Ngeltengat v. Ngiratecheboet, 4 ROP Intrm. 240, 242 (1994).
Arbedul v. Mokoll, 4 ROP Intrm. 189 (1994).
Ngiratred v. Joseph, 4 ROP Intrm. 80, 81 (1993).
Rengulbai v. Solang, 4 ROP Intrm. 68 (1993).
Ikeya v. Melaitau, 3 ROP Intrm. 386 (1993).
Estate of Debelbot, 3 ROP Intrm. 364, 368 (Tr. Div. 1990).
Brel v. Ngiraidong, 3 ROP Intrm. 107, 107-08 (1992).
Ngiradilubch v. Nabeyama, 3 ROP Intrm. 101, 102-03 (1992).
Kubarii v. Olkeriil, 3 ROP Intrm. 39 (1991).

Chapter 4
Declaration of Presumed Death

- § 401. Petition for declaration of presumed death of absent person exposed to specific peril.
- § 402. Adjudication of petition.
- § 403. Effect of a declaration of presumed death.
- § 404. Reappearance.

§ 401. Petition for declaration of presumed death of absent person exposed to specific peril.

(a) A petition may be filed in the Supreme Court for a declaration of presumed death of an absent person who:

- (1) Is domiciled in Palau;
- (2) Has real or personal property located in Palau;
- (3) Has been absent or missing from Palau for a period of no less than ninety (90) days; and
- (4) Was exposed to a specific peril that presumably resulted in the death of the absent person.

(b) The following individuals may file a petition for a declaration of presumed death pursuant to this section:

- (1) The spouse or domestic partner of the absent person;
- (2) A relative of the absent person; or
- (3) Any other person or friend of the absent person with an interest in the real or personal property of the absent person.

(c) A petition for a declaration of presumed death of an absent person shall include the following:

- (1) Name, address, and phone number of the absent person;

DECLARATION OF PRESUMED DEATH 25 PNCA § 402

- (2) Evidence of the absent person's domicile in Palau;
- (3) Name, address, and phone number of the petitioner;
- (4) Evidence of the family relationship, if any, between the petitioner and the absent person;
- (5) Where there is no family relationship between the petitioner and the absent person, evidence of the petitioner's interest in the real or personal property of the absent person;
- (6) A declaration that a diligent effort was undertaken to locate the absent person, or that a diligent effort would have been futile; and
- (7) A declaration detailing the date at which the person disappeared and the circumstances of the specific peril that the petitioner believes caused the death of the absent person.

Source

RPPL 9-33 § 1[401], modified.

§ 402. Adjudication of petition.

- (a) The court shall take any measures it deems necessary to determine whether the absent person is dead by reason of exposure to a specific peril, including ordering the testimony of persons with direct or indirect knowledge regarding the circumstances of the disappearance of the absent person.
- (b) The court shall take such measures it deems necessary to ensure that the spouse or domestic partner, and family members, of the absent person are notified of a petition for a declaration of presumed death and are given an opportunity to offer testimony regarding the petition.
- (c) The court shall hear testimony from any person regarding the circumstances of the absent person's disappearance regardless of the family relationship between the witness and the absent person and without regard to whether the testimony is hearsay. However, the court may determine the weight to grant any testimony.
- (d) The court shall grant a petition for a declaration of presumed death where it finds that

it is more likely than not that the absent person was exposed to a specific peril that caused the death of the absent person.

(e) The denial of a petition for a declaration of presumed death shall be without prejudice to a subsequent petition for a declaration of presumed death where the petitioner submits with the later petition material evidence regarding the disappearance of the absent person that was unavailable at the time of the adjudication of the denied petition.

Source

RPPL 9-33 § 1[402].

§ 403. Effect of a declaration of presumed death.

All agencies and departments of the national government and the state governments shall recognize a declaration of presumed death issued pursuant to this chapter as conclusive proof of the death of that person.

Source

RPPL 9-33 § 1[403].

§ 404. Reappearance.

(a) Any person with evidence that the absent person has reappeared may at any time petition the court to repeal the declaration of presumed death.

(b) The Court shall upon determination that the absent person has reappeared make such order, if any, in relation to any rights or any property acquired as a result of the declaration of presumed death as it considers fair and reasonable under the circumstances of the case.

Source

RPPL 9-33 § 1[404].