



LAW amusements



Surreal law facts

The truth is always stranger than fiction.

The Sudoku Will

In Québec, where holograph wills are valid, Fernande Aubé first had a proper will done up by a notary. Discovering that she had terminal cancer, she then wrote up a second, subsequent will in the margins of a Sudoku magazine.

Scribbled here and there amongst the numbered grids of the popular game, was a discernible last will and testament, albeit holograph, redistributing her assets - no signature but all in her handwriting, and the magazine sealed in an envelope which she carefully stored.

Amongst her last words at the hospital were "give my Sudoku magazine to my daughter".

After Madame Aubé's death, the Sudoku will was contested by those who would of been advantaged by the previous, notarized will.

In 2009, Justice Bédard of the Québec Superior Court held the unusual will as valid and the assets were distributed pursuant to the Sudoku terms.

Litigation obsession

Dr. Harrison Wagner was one crazy, paranoid dude. He may have been the world's most successful barrator (instigator of frivolous lawsuits).

The small sleepy town of Woodsboro, Maryland only had 500 inhabitants circa 1888. Wagner was an eccentric loner who started the trouble when he didn't pay a local supplier who, when presented with a bill from Dr. Wagner for medical services, deducted what Wagner owed him.

Wagner sued and lost when the supplier showed up in Court with nine character witnesses.

Wagner then started a litigation campaign the likes of which had never been seen before. He filed almost 11,000 claims for debt from various townspeople in a span of a few months, many receiving multiple claims.

The townspeople tried to get Wagner declared a barrator but without success.

Wagner somehow managed to obtain default judgment against a defendant William Shank who died soon after. Wagner pressed on against the estate, in an amount of \$13,230!

After that, in mysterious circumstances, he was thrown in jail for five years. In 1899, the Circuit Court of Appeals threw out the lot of the writs because they were "fatally defective".

Source: www.duhaine.org

LAW lexicon

Taxable income - The income against which tax rates are applied to compute tax paid; gross income of businesses or adjusted gross income of individuals less deductions and exemptions.

Temporary relief - Any form of action by a court granting one of the parties an order to protect its interest pending further action by the court.

Temporary restraining order - An emergency remedy of brief duration issued by a court only in exceptional circumstances, usually when immediate or irreparable damages or loss might result before the opposition could take action.

Tender of performance - An offer or attempt to do what is required under a contract or under the law.

Testamentary capacity - The legal ability to make a will.

Testamentary trust - A trust set up by a will.

Testator - Person who makes a will (Female: testatrix).

Source: Jurist International

LAW news

Threat to freedom and privacy from spyware

Reporters Without Borders is worried about a bill that would allow the French police to use spyware to obtain information from privately-owned computers and Internet cafés as part of their efforts to combat organised crime. The concern is shared by the National Commission for Information Technology and Freedom (CNIL), which has examined the bill at the government's request.

"We fear that excessive spyware use by the police could threaten the confidentiality of journalists' sources," Reporters Without Borders said. "The circumstances in which spyware can be used to obtain information from computers needs to be more clearly defined. We urge legislators to make the appropriate amendments to the bill."



The bill, which would add 10 articles to the criminal code, was submitted to the council of ministers on 27 May and is to be discussed by the National Assembly at the end of the year. Subject to oversight by a judge, it would allow the police to use remotely-introduced spyware to obtain computer data without the knowledge and consent of those concerned.

The CNIL began examining seven of the bill's articles at the interior ministry's request on 16 April. In its opinion, issued on 24 July, it described them as extremely "sensitive" because they would represent a major exception to the principles of a January 1978 law protecting personal data. Invasions of privacy under the bill should be "proportionate to the goal pursued," the commission said.

The spyware would allow the police to capture all key strokes and everything appearing on screen for up to eight months. The commission voiced particular concern about the collection of data from law firms, court clerks, doctors and newspapers, and called for solid guarantees to avoid abuses.

Source: Human Rights Education Associates (HREA) is an international non-governmental organisation that supports human rights learning.

READER'S queries

When is Succession Certificate required?

I'm an avid reader of your esteemed Column ever since its inception. I am submitting my query as under.

(a) A person, years before his death made a WILL clearly apportioning his assets strictly and precisely as per his wish or as per the Islamic Law. Even then, after his demise, will his heirs have to file a suit in the Court of Law for Succession Certificate, to share their father's assets?

(b) Another query is that, if the person before his death appoints nominee/s during opening his Bank A/C, is Succession Certificate still essential for withdrawal of the Bank money?

(c) One more thing, is registration of WILL mandatory?

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Response to your queries:

(a) You have raised a very pertinent legal issue. In such an issue difference of opinion is seen amongst legal experts. WILL is the legal declaration of the intention of a Muslim with respect to his property, which he desires to be carried into effect after his death. It may be made orally or writing. However, convenience demands that it should be in writing. If the WILL is in writing it need not be signed and if signed it need not be attested. The only requisite is that the intention of the testator (the person making the WILL) should be clear. Again, no Muslim can bequeath more than one-third of his estate unless other heirs consent to it. Sometimes it happens that the deceased person was entitled to certain Bank or debt-money or other movables which were not the subject of the WILL. It is in these areas (ambiguity, exceeding the legal limit of one-third or movables) problem arises among the co-sharers by inheritance. From your queries it is not clear what happened to your case. If any thing happens like these you need to procure a succession certificate from a court of competent jurisdiction. Otherwise it is not necessary. But as a future caution obtaining of such certificate proves to be a prudent job to face a contingent legal complexity. Out of the court, the co-sharers of a deceased may obtain inheritance certificate from local government representatives. The application is to be made in the court, where the properties of your deceased relative are situated or where he/she normally resided. According to Succession Act 1925 the District Judge has the jurisdiction to issue succession certificate. But usually the Joint District Judge is delegated to exercise this power. You have to apply to the Court with the names of all other heirs of your late relative as the respondents in the matter. Normally a newspaper notice is also issued apart from mandatory notice to the respondents. If the respondents have given their no objection, the court passes the orders for issuance of the Succession Certificate in your name, for which you have to then



submit Judicial Stamp papers of sufficient amount (as per the prescribed court fees structure) in the court, where after the Certificate is typed by the court staff, duly signed and sealed and delivered.

(b) Normally the Banks do not require for a succession certificate in case there is a nominee. Yet the practice is that the Bank asks for it to avoid any practice of fraud or any prospective legal complexity. The practice of demanding succession certificate by the banks in such cases varies.

(c) A WILL may be revoked by the testator either expressly or impliedly or by a subsequent WILL any time before his death. Because, WILL becomes effective after the death of the testator. For this reason registration law has kept WILL out of the ambit of compulsory registration. So, registration of a WILL is optional. But, you know, registered document is preferable for a convincing proof in the court of law.

Law Desk

HUMAN RIGHTS monitor

Tougher steps to end widespread sexual violence in armed conflict

The systematic use of sexual violence as a weapon, mainly against women, is rife in armed conflicts in Africa, Asia and Europe, Secretary-General Ban Ki-moon warned today in his latest report on the scourge, calling for States to strengthen prevention and protection measures against the crime.

"In a number of contemporary conflicts, sexual violence has taken on particularly brutal dimensions, sometimes as means of pursuing military, political, social and economic objectives," Mr. Ban wrote in his report to the Security Council.

He added that sexual violence is "perpetrated mainly against civilians in direct violation of international humanitarian, human rights and criminal law."

Mr. Ban noted that for the first time the International Criminal Tribunal for Rwanda (ICTR) qualified rape as a form of genocide, recognizing that sexual violence was a step in the process of group destruction, the "destruction of the spirit, of the will to live, and of life itself."

While women and girls make up the majority of victims of sexual violence, the International Criminal Tribunal for the former Yugoslavia (ICTY) and the Special Court for Sierra Leone (SCSL) have also heard testimony relating to male victims.

"In eastern Democratic Republic of the Congo (DRC), at least 200,000 cases of sexual violence have been recorded since hostilities began in 1996," Mr. Ban said in the report, noting that the figure is a conservative estimate due to gross under-reporting and the fact that many victims do not survive to tell the tale.

In his March report, Mr. Ban told the Security Council that these attacks continue unabated in eastern DRC, and following the joint Congolese-Rwandan Government offensive in January against the rebel Rwandan FDLR militia, reprisals against local civilians in North Kivu were committed.

He stressed that members of the DRC armed forces (FARDC) and the Congolese National Police (PNC) were responsible "for a large number of serious human rights violations, including rape. In parts of South Kivu as well, MONUC [the UN peacekeeping mission in DRC] has registered reports that militia commit sexual violence while looting villages near military encampments and attack women as they gather firewood, food or water."

A noticeable trend in attacks on



civilians is the accompanying abduction, enforced prostitution and enslavement of the victims, said Mr. Ban, highlighting that in the Sierra Leone conflict, women and girls were kidnapped and forced to marry combatants.

"These 'bush wives' were then subjected to rape and other forms of sexual violence. Currently in the Democratic Republic of the Congo, for example, reports indicate that FARDC is engaging in enforced prostitution of young girls and is taking young female students as 'wives' through a pattern of establishing bases near schools."

In his report, Mr. Ban said that several of the defendants at the ICTR, ICTY and SCSL included the highest levels of civilian and military leaders accused of commissioning or condoning acts of sexual violence.

"In eastern Chad, cases of rape and gang rape committed by officers and soldiers of the Armée Nationale Tchadienne (ANT) have been documented. In Nepal, in the Tarai region, an estimated 15 to 20 armed groups are reportedly participating in violent activities, including sexual violence against women and girls."

Mr. Ban noted that inadequate measures to prevent sexual violence and protect civilians; insufficient steps to combat impunity for sexual violence; and the lack of action addressing the continued discrimination against women and girls in law and practice; contribute to and exacerbate the abuses.

To remedy the situation, Mr. Ban called on States and other parties to conflict to commit to concrete actions, such as sending clear and forceful instructions and regular messages on the categorical prohibition of sexual violence, and to demonstrate that breaches will be punished; addressing inequalities and discrimination against women and girls by promoting more women to decision-making positions in society; ratifying and implementing core international human rights treaties; and strengthening national capacity to hold all perpetrators of sexual violence accountable for the crimes, ensuring that amnesties and immunities exclude those that commit or commission sexual violence; among other measures.

Source: UN News Service

LAW week



Biggest pullout from CHT

In a major development towards implementation of the Chittagong Hill Tracts Peace Accord 1997, the government has decided to withdraw one brigade of troops and 35 temporary security camps from CHT areas by this September. As part of phasing out of military from the three hill districts as per the agreement, the announced withdrawal will start immediately, says an official statement disclosed. A few more steps are also being taken to implement the historic peace accord. -The Daily Star, July 30, 2009.

Govt asked to procure quake rescue equipment

The High Court in a verdict directed the government to procure necessary rescue equipment in case of any earthquake disaster in the country. The HC also directed the government to form a committee headed by the secretary to the home ministry to prepare a list of necessary equipment within two months. The committee will place its recommendations to face any earthquake disaster and the list of rescue equipment to the finance ministry for allocation of fund within two months after the formation of the committee, the court ruled. -The Daily Star, July 30, 2009.

PM for joint efforts to combat crime

Prime Minister Sheikh Hasina directed deputy commissioners to work in coordination with the superintendents of police and upazila nirbahi officers concerned for improving law and order in the country. Addressing the opening session of a three-day conference for DCs at the Prime Minister's Office, Hasina instructed them to work to stamp out militancy, extremism and other crimes from the society. The prime minister also asked them to execute development initiatives and government projects properly remaining above all influences. -The Daily Star, July 29, 2009.

Move to identify perpetrators of '71 genocide

A two-day international conference begins to pave the way for identifying the perpetrators of genocide during the Liberation War and developing a broad network to bring those responsible to justice. "This conference is going to be held at a historic moment for the nation when the government is making a move towards the trial of war criminals," said trustee of Liberation War Museum Mofidul Haque at a press conference held at the museum premises in the city. The conference titled Second International Conference on Genocide, Truth and Justice-organised by the Liberation War Museum at Cirdap auditorium-will bring together representatives from International Criminal Court, prosecutors involved in war crimes tribunals, International Council of Jurists, and academics from Hong Kong, Korea, Germany, Japan, Pakistan, Canada, Cambodia, UK and Bangladesh. -The Daily Star, July 29, 2009.

Prosecutors and investigators to be named shortly

The government will finalise the names of prosecutors and investigators within a day or two for holding the long-awaited trial of war criminals, Law Minister Shafique Ahmed said. "We have already got the names of probable prosecutors and investigators for the trial and we will finalise the names after reviewing their profiles within a day or two," he said while talking to the press at a book launching ceremony as the chief guest at Bangladesh Asiatic Society auditorium in the evening. The minister said there is no legal complication in holding the trial of war criminals, as the government had updated the respective law. -The Daily Star, July 27, 2009.

Long march by indigenous people to protest attacks

Over two hundred members of the indigenous community began a two-day long march across 55 kilometres from Porsha upazila to Naogaon town to protest attacks on indigenous families. The march was organised under the banner of Jatia Adibashi Parishad (JAP) after a gang led by Nur Hossain Master of Soraigachhi attacked the houses of some 74 families including 54 indigenous families at Katirpur on June 12. They torched, damaged and looted the houses and also randomly beat up indigenous men, women and children during the attack. -The Daily Star, July 27, 2009.

Small errors fail ACC cases

The anti-graft cases filed against high-profile accused are getting quashed or stayed due to trivial technical glitches although allegations brought against them have merit and were substantiated. The Anti-Corruption Commission (ACC) cases are mainly facing problems like issuance of notices on 50 such accused by the ACC secretary when the three-member commission was not formed and filing some cases without sanction. More than 200 high-profile accused have so far obtained stay orders on their cases filed in absence of sanction by the commission. -The Daily Star, July 26, 2009.

Fee riddle in ratified constitution

The amended constitution of the Awami League has fixed new fees to be paid by its lawmakers to party funds, but it did not specify whether the payments will be monthly or annual. Before the amendment at Friday's national council, a member of the AL Parliamentary Party had to pay Tk 100 a month each to the funds of the party and its parliamentary body. The amendments to the AL constitution, which was submitted to the Election Commission, said each member will now have to pay Tk 500, each to those funds. But it does not clarify the nature of the payments. -The Daily Star, July 26, 2009.

3 Rab men held on extortion charge, Tk 7 lakh recovered

Police arrested three Rab personnel on charge of snatching Tk 10.86 lakh from a man threatening to kill him in crossfire. After the arrest police recovered around Tk 7 lakh from the arrestees. The victim was Tajul Islam Hiron, 30, marketing manager of Fair Advertising at RK Mission Road in the capital. The arrestees were assistant superintendent of police Shobeb Ahmed and sepoy Sagar Chandra and Shahidul Alam of Rab-3. The authorities concerned have suspended the three Rab personnel. They were produced before a Dhaka court, which sent them to jail. -The Daily Star, July 25, 2009.

Mayors, rabbis detained in US anti-graft sweep

US law enforcement agents on arrested dozens of politicians and rabbis in an anti-corruption sweep alleging money laundering, extortion, bribery and even trafficking in human organs. The stunning New Jersey swoop netted 44 people across a state long seen as one of the most corrupt and crime-ridden in the country. Five rabbis were among the suspects, along with the mayors of the cities of Hoboken, Secaucus and Ridgefield, the Jersey City deputy mayor and council president, two state assembly members, and numerous other politicians, prosecutors said. -The Daily Star, July 25, 2009.

Dear reader,

You may send us your daily life legal problems including family, financial, land or any other issues. Legal experts will answer those. Please send your mails, queries and opinions to: LawDesk, The Daily Star, 19 Karwan Bazar, Dhaka-1215; telephone: 8124944, 8124955, fax 8125155; email: ds.lawdesk@yahoo.co.uk, lawdesk@thedailystar.net