

Heirs don't need a certificate of inheritance to correct the land register - Law of Succession

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GRP Rainer Lawyers and Tax Advisors in Cologne, Berlin, Bonn, Dusseldorf, Frankfurt, Hamburg, Munich, Stuttgart and London www.grprainer.com/en conclude: If it is necessary following an incidence of succession to correct the land register, it is not absolutely necessary for a certificate of inheritance to be presented. If devolution upon death results from a public testamentary deed and this is presented to the land registry office then in this case the correction can still take place, according to a ruling (Az.: 15 W 248/13) of the Higher Regional Court (OLG) of Hamm. Thus, the office must first interpret the deed and can only then demand a certificate of inheritance if the circumstances remain unclear thereafter.

In the instant case, a married couple concluded a notarial contract of inheritance in which they reciprocally appointed each other as sole heirs and their children in equal proportions respectively as reversionary heirs. After the death of the last surviving parent, the children applied at the competent land registry office to be registered as owners of the inherited plot of land. However, the land registry office instructed them with an interim order to verify the position of sole heir by means of a certificate of inheritance. The reason given was that the contract of inheritance was not sufficient and the wording unclear. The petitioners lodged an appeal against this interim order and the OLG Hamm found in their favour.

In the view of the judges, the land registry office would have to draw on the will as the basis of a correction of the land register, even if the legal order of succession needed to be ascertained by interpretation. Doubt as to the actual circumstances, which would justify the submission of a certificate of inheritance, did not exist. While it does not clearly emerge from the agreement whether the children ought to be final heirs of the last surviving parent or a provisional succession and reversionary inheritance can be assumed, this is not relevant because in any case in the event of both parents dying there is a designation of the final heirs. Both children thereby became owners of the plot of land.

In cases of succession, the parties should turn to a lawyer active in the field of the law of succession. He can examine the circumstances, highlight possible claims and help legally enforce them.

<http://www.grprainer.com/en/Law-of-Succession.html>

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Anlage: Bild

