

Interpreting the appointment of an heir in the joint will of spouses - Inheritance Law

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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: In its decision of September 20, 2013 (File number: 49 VI 335/12), The Municipal Court (AG) of Brandenburg commented on the interpretation of the appointment of an heir in the joint will of spouses. A will made by spouses in which they appointed "our children?• as heirs should be interpreted to also include as final heir a child from the first marriage of one of the testators. The Court held that in their joint will, by using the term "our children?•, they appointed all their offspring as final heirs. In particular, the Court held that they appointed all their offspring regardless of whether the offspring were joint children or the children of only one spouse. A different interpretation would only be justified if in their joint will, the spouses would have appointed only their "joint children?• as final heirs.

The Court held that in interpreting a will, it is specifically always necessary to explore the real wishes of the testators. For a joint will this means in particular that it should be reviewed whether the possible interpretation of the will according to the wishes of one spouse also corresponds to the wishes of the other spouse.

German inheritance law is sophisticated, but not made for lay persons. In spite of this, many testators make their will without professional help. The results: An ineffective will and arguments among the heirs. A lawyer with experience in inheritance law will prevent this. Legal advice by a lawyer versed in inheritance law can guarantee a flawless will. If testators arrange for their estate with the help of such a lawyer, they can be sure that the heirs will respect their last will.

Spouses should consult a lawyer versed in family and inheritance law when they set up a joint will. In formulating the will, he can consider all possible constellations. A qualified lawyer will be glad to advise testators to ensure that upon succession, the final heirs appointed by them can accept the inheritance without problems.

<http://www.grprainer.com/en/Last-Will-and-Testament.html>

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Anlage: Bild

