

Answer by **Charlotte Henshall, Dispute Resolution Solicitor at Payne Hicks Beach**, first published online in the Financial Times on 26 February 2019 and reproduced with kind permission https://www.ft.com/content/ea403ac4-311e-11e9-8744-e7016697f225?FTCamp=engage%2FCAPI%2Falert%2FChannel_signal%2F%2FB2B

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Your Questions **Personal Finance Advice & Comment**

Can I keep my family's estate intact, despite my siblings' wishes?

I believe it was my father's wish to keep everything together



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My family's estate has been passed down through the generations and following my father's recent death has been passed to myself and my three siblings. I strongly believe that our assets, such as a vast collection of artworks, are of considerable value and should be kept within the family, and I believe it was my father's wish to keep the estate intact.

Unfortunately, my siblings disagree and want to split the estate and sell some of the assets. Is there any way I can legally prevent this from happening?

Simon Mitchell, partner at law firm Thomson Snell & Passmore, says the aim of keeping an estate intact is a common one but the question as to how achievable that might be depends on a number of factors.

The first issue is the will itself. If it divides the estate equally between a number of different **beneficiaries** — such as the deceased’s children — then the instructions left by the testator already indicate that the estate would need to be split in order for the will instructions to be carried out.

Where individual items such as artworks are concerned, this might suggest that each of the children would receive some of those items as part of their equal shares of the estate. A testator is free to leave wishes either in the will or in a supporting letter to confirm which items should go to which beneficiary.

There is also the question of who has been appointed as the executors in the estate as these are the people who must decide how the estate is to be administered. The beneficiaries can agree with the executors how the artworks and the wider estate should be divided between those beneficiaries, which might allow some wider decisions to be made. For example, a beneficiary receiving certain items or artworks could agree to sell them to one of the other beneficiaries, thereby allowing more of the artworks to remain together.

Alternatively, it might be possible to distribute the artworks to one beneficiary alone provided that this falls within the value of the equal share due to that beneficiary and the other beneficiaries have no objection.

Another issue that affects many estates is **inheritance tax (IHT)**. It is often unavoidable for some assets in an estate to be sold if there is a tax liability to be paid from that estate, in which case the executors must decide which assets should be sold and which retained. HM Revenue & Customs will begin to charge interest on any outstanding IHT once six months have passed from the date of death, so the longer the delay, the more tax and interest would fall due.

It would be sensible for the executors to ensure that the position has been agreed with the beneficiaries as far as possible to ensure that there is a clear way forward, but if no such agreement is possible, the executors would need to tread very carefully. Ultimately, the executors might find themselves in a position where they must refuse to distribute the estate until such time as the dispute has been resolved and it is clear how the estate should be distributed.

Charlotte Henshall, solicitor at Payne Hicks Beach, says this complex question was the subject of the 2016 High Court inheritance dispute involving Sir Michael Butler’s four children, following his death in 2013. Sir Michael amassed a vast collection of 17th century Chinese porcelain pots, thought to be worth up to £8m. During his lifetime he gifted the majority of the collection to his four children equally, indicating that it should be kept together for a decade after his death.

Sir Michael left a will and two letters of wishes. Under his letter of wishes, he repeated his desire that the collection be kept intact for a decade. Almost immediately after his death, it became clear that two of the siblings wanted to split the collection equally but the other two siblings wanted to keep the collection together. The dispute ended up in court and in his judgment the judge said that “Sir Michael’s wishes . . . may have some moral standing but they are of no legal significance”. The collection was split up.



Charlotte Henshall, solicitor at Payne Hicks Beach

More recently, an inheritance dispute arose between the aristocratic Torlonia family in Italy. Their wealth is reported to include works of art worth almost €2bn. Following the death of Prince Alessandro Torlonia, his eldest son is embroiled in a dispute with his three siblings over concerns that a number of the heirs and the executor want to sell various assets. However, last month it was reported that a court in Rome had prevented the assets from being sold as it saw the danger of dispersion. However, the Butler case suggests that the English courts may not take the same approach.

Disputes regarding the distribution of personal possessions are commonplace due to the emotional attachment placed on them. In order to ensure that personal possessions go to the intended beneficiaries, it is important to have a will that clearly sets out your intentions regarding what items are to be sold and what items are to be retained. Using a trust with the right people appointed as trustees rather than leaving everything outright might help to ensure that the testator's wishes are adhered to.

Given the High Court's ruling in the [Sir Michael Butler](#) case, it is clear that the court is willing to split an estate which has been left equally to a number of beneficiaries and it is not enough simply to rely on the testator's wish that the collection stay intact.

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