

## HOUSE LOST DUE TO HASTY “KUASA” WHEN SON KICKS OUT MOTHER

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Grandma Tan was a picture of hopelessness and remorse as she sat slumped on the chair, staring blankly into space.

If only she could turn back the clock, thought the frail old lady, clutching her plastic bag of receipts which represented her only hope to show proof that she had dutifully serviced the housing loan and thus, rightfully owned her house.

Her thoughts went back to three years ago when she made the decision to *kuasa* (an ubiquitous colloquial Penang Hokkien term to mean “transfer” pertaining to assets) her house to her son. She was going to undergo an operation and had decided then it would be better to transfer the title of her house to her only son. Just in case...

The surgery was a success and after recuperating in her daughter's house, she returned home to stay with her son and daughter-in-law. Over time, she noticed that her daughter-in-law was often argumentative and also rude towards her.

One evening, her son pleaded with her that in the interest of peace and harmony in the house and to make things easier for him that Grandma Tan move out to stay with her daughter.

She agreed, thinking that it would be good to let things cool down. But, the day she moved out was the last she saw her son and daughter-in-law and the house she owned, that was before she made the mistake to *kuasa* it away. Even through efforts by her daughter and also intermediaries like her own brothers, her son would not allow her to move back in.

Grandma Tan regretted that she had not even considered her filial daughter when she signed the papers to transfer the house to her son. She did not imagine that her son would turn out to be so ungrateful.

When she heard of an Estate Planning talk in the neighbourhood of her daughter's house, she came with her housing loan repayment receipts hoping that she could undo the mistake committed in haste three years ago, only to be told that it was not possible.

Had she not been ignorant of wills and trust, Grandma Tan would not have resorted to the practice of *kuasa* and lose control of her house as well as her wish as to who would be rightful beneficiary of her most precious asset. The options available for Grandma Tan are to write a will and bequeath the house to whom she pleases or to set up a Declaration of Trust in which she is named as a trustee and a licensed trust company as a substitute trustee.

In the second option, she will be able to maintain control and be able to stay in the house during her lifetime. No one, not her son or daughter-in-law, will have the legal right to deny her the right of staying in the house.

Upon her demise, the licensed trust company will then act to carry out her instructions as spelt out in the trust deed, i.e to transfer the house to whoever she wishes.

With the Declaration of Trust, the transfer of the house to the beneficiaries can be effected in a significantly speedier process as the trust eliminates the process of applying for probate in court which can be protracted.

The appointment of a licensed trust company as a substitute trustee is often recommended as an individual is liable to die, fall ill or meet with an accident and be incapacitated or become bankrupt. In addition, an individual's assets – which will include the assets that he is trustee for – will be frozen upon his death until the necessary legal estate administration processes are completed.