

You Can't Buy Love but You Can Buy a Will!

The sudden death of Stephen Gately at the age of 33 made the LGBT community momentarily take stock of how precious life can be. The aftermath and speculation in the press of what Stephen might have been doing when he died overshadowed the loss to Andrew Cowles of his civil partner.

Tests have shown that Stephen died of an undiagnosed heart condition, something any of us could have and proves that none of us know when our time might be up.

To compound Andrew's loss was the fact that Stephen did not make a Will. Was Stephen too young to make a Will? Did Stephen ever consider it? Why didn't Stephen's advisors make sure he had a Will? What would Stephen have done had he made a Will? Questions I am sure that came flooding through when it was realised that Stephen did not have a Will.

It's a natural presumption that when we get hitched our civil partner takes all of our assets if we die, but that presumption is not correct. The legal system has what is known as the Intestacy Rules which dictate what happens to the estate of someone who dies without having made a Will. The Intestacy Rules try to put the family of the person who has died in the position that they would have been in had the deceased made a Will. However, the Intestacy Rules put a limit on the amount a civil partner (or spouse, they are treated the same) inherits where the deceased is survived by children or other close relatives.

In Stephen's case where he was survived by Andrew and parents, the Intestacy Rules stated that Andrew received all of Stephen's personal possessions, the first £450,000 worth of assets in Stephen's sole name and half of the remainder. The other half of the remainder passed equally to Stephen's parents. This reportedly left Andrew with just under £1million worth of assets and Stephen's parents with just over £500,000 worth of assets.

It always strikes me as somewhat odd that our legal system feels that on the death of a civil partner without a Will, close family members should take some of the assets. Do these people who make our laws live in the real world? Something like 99% of my clients in a civil partnership leave everything to the surviving civil partner.

What would Stephen have wanted? Maybe he would have wanted his estate to pass in this way. The irony is, no one will ever know.

If, like most of my clients, Stephen would have wanted the whole of his estate to pass to his civil partner that means Andrew has lost over £500,000. Had Stephen spent a tiny portion of that making a Will there would be no speculation.

What makes the situation worse, if the figures are true, is that there would have been Inheritance Tax to pay on the money passing to Stephen's parents. Based on an inheritance to the parents of £500,000 the Inheritance Tax that Stephen's estate would have had to pay would have been £70,000. Had everything passed to Andrew, no Inheritance Tax would have been due.

Andrew has been reported as saying that whatever he inherited from Stephen's estate he would give to charity. With charitable giving suffering from our current economic problems, the extra half a million could really have helped, and again, no Inheritance Tax on gifts to charity.

Andrew is a very accomplished business man in his own right. It's highly likely that Andrew didn't need Stephen's money but how much easier life would have been for Andrew had his life partner made a Will and left everything to him or to charities.

It's an old cliché, but how important it is to learn from other peoples mistakes.

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Note to Editors:

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Renaissance Legal is a specialist law firm providing wills, trusts, tax planning, powers of attorney and probate services. **Renaissance Legal** was launched on 1 August 2010, is based in Brighton and has clients across the South East and London. **Renaissance Legal** was founded by **Philip Warford** who has over 20 years experience working for Solicitors firms in Norfolk and East Sussex.

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