



**Paul Blackmoore (Practice Principal) with little helper Benny, his rescue French Bulldog**

Many British Expats believe at least one of the following:

- Their Will made in the UK covers their Spanish assets.
  - If they have no Will and are married with children, their spouse will inherit everything first.
  - A Spanish Will made before 2012 will still guarantee their wishes will be able to be adhered to.
  - If they are not married and have children, those children will automatically inherit everything.
- In fact - **EVERY ONE** of the above

# THE IMPACT OF NOT HAVING A SPANISH WILL ON YOUR SPOUSE AND FAMILY

statements is false.

Let's go through this step by step then:

## **1. A Will made in the UK is not able to deal with Spanish assets effectively.**

It would firstly need to be written containing a Brussels IV Regulation EU no 650/2012 succession clause stating that the law of either;

England and Wales  
Scotland  
Northern Ireland  
The Isle of Man  
Or

Guernsey and Jersey  
Should govern the succession of the testator's estate and then, upon death, the Will would need to be translated into Spanish and be sent to have an apostille attached.

It's much simpler to arrange a notarised Spanish Will, written in both Spanish and English, containing a Brussels IV clause that will guarantee your wishes for your Spanish estate will be able to be carried out.

## **2. If you do not have an up-to-date Spanish Will in place and are married with children, your**

## **spouse will not inherit all of your estate under Spanish law.**

The way your estate will be divided is as follows:

Your spouse would inherit a Life interest only (called an usufructo) in 1/3rd of your estate.

The other 2/3rds will get divided equally between your children. The children then inherit the 1/3rd that your spouse had a life interest in when the surviving spouse dies. Just having a life interest in 1/3rd of an estate is clearly not what the majority of married Expats want for their spouse after they die, which is why arranging a new Spanish Will choosing the law of your home nation to govern the succession of your estate and clearly setting out your wishes is so vitally important.

## **3. Spanish Wills made before 2012 will not have a Brussels IV clause in them allowing you to choose the law of your home country to govern the succession of your estate.**

This means your wishes will not be able to be adhered to and in many cases, EVEN Wills written after this time refer to:

British Law or UK Law, neither of which exist, only the law of the home jurisdictions listed exist as legal entities, so it is much better to ensure that you update your Will to ensure your wishes regarding who receives your estate when you die are able to be carried out without any issue.

## **4. If you are not married and own a property jointly with a partner, that partner will NOT own the whole property when you die.**

Your half of the property would be inherited equally by any children or by any surviving parents if you had no children, and, if no surviving parents or children, then your siblings and/or your nephews and nieces would inherit your share of the property.

**Obviously, it is important that your wishes are able to be complied with when you die and with our Wills starting at just 99€ including iva, now is the ideal time to call us on 865 756 058 to get yours sorted out properly and legally.**