

# How non-Muslim expats can register their will in the UAE



## LEGAL VIEW Ashish Mehta

*My questions are related to the legal provisions for transferring my real estate and other property. (1) I want my child to inherit all my property and bank accounts that I own in the UAE, but not in accordance with the Sharia law. (2) Can I own a property in the UAE while being a resident in India and not holding a UAE resident permit? (3) Can I dispose of my UAE immovable property from my home country?*

Pursuant to your queries, in the UAE there are provisions for non-Muslims to opt for law of their country related to the personal affairs regarding marriage, wills and inheritance. We assume that all your properties (movable and properties) are based in the emirate of Dubai or Ras Al Khaimah.

Article 1(2) of the Federal Law No. 28 of 2005 concerning personal status allows an expat non-Muslim to apply the provision of personal law of his home country.

It states: "The provisions of this law shall apply to the residents/citizens of the UAE unless the non-Muslims of them are subject to special provisions applicable to their sect and denomination, as long as none of them insists on applying his law."

Since you want your child to inherit your properties which includes both movable properties and immovable properties, it is advised to

register a will at the DIFC Wills and Registry, which was set up in Dubai in 2015. The DIFC Wills will be non-Sharia compliant and the provisions of Common Law can be applied.

Further, if your property (both immovable and movable) are based in emirates other than Dubai or Ras Al Khaimah, it is recommended to draw up a non-Sharia will in favour of your child, notarised before the Notary Public subject to the approval of the Notary Public. Alternatively, this will may be attested by the Indian diplomatic mission in the UAE.

It is not mandatory to obtain a residence visa of the UAE to own a property. You may sell your property by granting a power of attorney to any person of your choice. This power of attorney should be suitably drafted considering the regulations of the UAE and should be notarised and legalised if such power of attorney is issued outside the UAE.

### Know the law

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### Can I get a 'non-refundable' deposit back?

*I had paid Dh2,000 as deposit to book a new car at a dealership in Dubai. Due to unforeseen job-related circumstances, I dropped the plan to buy the car. In the deposit receipt, it is mentioned "non-refundable". I have explained my situation to the dealer but my request has been declined. The dealer told me that the deposit is non-refundable and it can be used only against buying car/or servicing a car of their brand. Is it legal to write that the deposit is non-refundable in the receipt? If I approach the UAE consumer court, can I recover my deposit amount?*

Pursuant to your queries, we assume that you entered into an expressed or implied contract with the car dealership company in Dubai and in accordance with the said contract, you paid a deposit of Dh2,000 as part of booking a new car. The car dealership company provided you with a receipt for the deposit amount you paid and the said receipt mentions that this deposit is "non-refundable".

Since you accepted the term "non-refundable" as mentioned on this receipt and paid the deposit with full knowledge and acceptance that this deposit is "non-refundable", the deposit may not be refundable. This is in accordance with Article 148 of the Federal Law No.5 of 1985 on the is-

### Know the law

"Payment of advance money shall be considered evidence that the contract has become finally binding, and no one can withdraw from it unless the agreement or custom requires otherwise."



suance of the Civil Transaction Law of the UAE, which states: "1. Payment of advance money shall be considered evidence that the contract has become finally binding, and no one can withdraw from it unless the agreement or custom requires otherwise.

"2. If two contracting parties agree that the earnest money be considered a penalty against the party who withdraws from the contract, either one of them shall be entitled to withdraw, and whoever pays the earnest moneys shall lose it if he withdraws, and whoever receives it, shall make restitution thereof plus an equivalent amount if he withdraws."

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