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Probate Proceedings and Their Implications in the Brazilian Legal Context

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Subject addressed in the Conclusion Work of the Law Course, of the Alto Vale do Rio do Peixe University (UNIARP), Brazil, where after a thorough analysis of the authors and, in view of the lack of knowledge of citizens on the subject, we thought about making an introductory study for those interested in the subject, in order to assist them in practical issues, as well as to make this article an effective means to disseminate information and knowledge.

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Abstract

Reflecting on death is not pleasant, especially in a society full of excuses and that refuses to talk about it. In the broad sense, thinking of death is reason that in fact it will happen, because that is the rule. On the other hand, the interruption given to life, in a strict sense, brings situations in which things remain pending, such as: the destination of patrimonial, financial, or affective assets. And the maintenance of these assets by the executor or heir is not a mere work of charity, but an essential legal means to conduct an unbiased sharing; protecting and avoiding disputes over family assets, as well as to pay any pending debts, to manage responsibilities and other purposes. However, due to individuals' ignorance of how the probate proceedings work, they often end up missing deadlines, incurring fines, giving the improper destination to the goods and at the time of providing clarifications, the only things that remain are discomfort and pain for the one they loved. Thus, this study aims to carry out a functionalist approach on the subject, based on a bibliographic review, in order to pass on notions about the probate proceedings and their implications in the Brazilian legal context, as well as to explain this procedure for the ones that are interested in it, in order to help them, even in case they are going through a probate proceeding process, which is mandatory in Brazil and its effectiveness is necessary for maintaining our fundamental constitutional rights. We could conclude that when you have knowledge on the subject, it is easier to deal with the probate proceedings, because you know the deadlines; the goods that are to be brought into the collection; who can be the executor of the probate proceedings; what should be done when the deceased one has no assets; among other needs. So, when one knows about the procedures, it tends to give positive and faster results to those involved.

Key words: Probate; Opening of probate proceedings; Extrajudicial probate proceedings; Judicial probate proceedings; Negative probate proceedings

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INTRODUCTION

Life is full of problems and decisions. These circumstances generate reflections about the past, present, and future actions. And when these events involve discussions about assets, death and inheritance, these situations are even more difficult to deal with.

Although for some deciding may seem like a simple attitude, for many people they are exhausting, complicated actions, because they involve affective, financial, and planning situations. Therefore, these verdicts become even more complex to think about, as in the case of leaving their desires expressed in life for after death (GAGLIANO; PAMPLONA-FILHO, 2018).

Madaleno (2013) asserts that it is the right of every citizen to plan the destination of their goods. While some do so, another portion, and the vast majority, does not plan it. He adds that because it is an uncomfortable topic, it is postponed most of the time, sometimes until it is too late.

For Teixeira (2019), the delineation of assets in life, or even the study of probate planning is one of the most efficient legal means to establish this right and decision. It is a preventive and safe instrument to avoid conflicts during the probate.

However, it is currently noticeable that individuals lack knowledge on the subject. Perhaps because of a fad, people seek to know the means to ensure the initial dispositions and end up not being able to differentiate basic notions and procedures of what probate is and how the probate proceedings occur, which are the fundamental foundations for the realization and prospection of good probate planning.

Having said that, the idea of this study is not a critical, but rather a practical and functionalist approach on some bibliographic reviews, in order to compile and pass on notions to those interested in the subject, as well as for those who are unaware of it, in order to demonstrate that probate and probate proceedings are as important aspects as the legal means ends, for example, probate planning, which protect these preambular procedures.

Another important mention to make is that the right to inheritance, much more than a prerogative known by common sense, is a fundamental guarantee, protected by the Constitution of the Federative Republic of Brazil, in its article 5, item XXX (Brazil, 1988). Therefore, it is an effectiveness of fundamental constitutional civil and social rights, which deserves to be known by all citizens, because at some point, someone will always be figuring in the position of executor, heir or as the deceased one.

Even though the theme can be seen as something without unpublished research, without tangible results or even of a very incipient character, it is important to clarify that the scientific contribution in question is precisely this one: to provide a primordial knowledge for those interested in the subject, or for those who are entering a situation of probate proceedings, permeated by conflicts between the heirs and the pain of loss, so that they can open the probate process without missing the deadlines, without incurring penalties or evading assets because of unknown mistakes. It is to raise a vision of how this legal procedure works, because many go in search of information only when they see themselves in the situation of probate proceedings.

1. PROBATE AND PROBATE PROCEEDINGS – BRIEF CONSIDERATIONS

Venosa (2017) understands the probate event as the substitution, not of the thing, but of an individual that comes to the place of another in the probate field; the one who enters the legal relationship, causing a change of ownership to occur, in the person who will be the holder of the right. The purchaser succeeds the seller in ownership of the sale (thing), the donee succeeds the donor in ownership of the donation (thing), the transferor succeeds the transferee, and so on.

The probate will only be opened when the decease occurs, stipulating among the successors the assets of the hereditary collection, which until that moment, are treated as a unitary whole, because then all the assets belong to all the heirs, since nothing has been divided yet. Therefore, there is a state of communion among heirs, which will end with the sharing and segmentation of the goods that make up the assets (Diniz, 2021).

Once the probate is opened, the next step is to carry out the probate proceedings, which in the understanding of Gagliano and Pamplona Filho (2018), is the detailed list (inheritance assets) of the assets *of the deceased, to* which it will be given in the future, to the sharing or the adjudication of assets.

Thus, for this partition / division to occur, on account of the death of the person, it is essential to carry out the probate proceedings, whose initial objective is to demonstrate what are the patrimonial and financial assets, in the name of the deceased, to then provide the fair and equal division between the heirs, according to their hereditary shares, in addition to the calculation of debts and their payment, in case they exist (DINIZ, 2021).

Gagliano and Pamplona Filho (2018) state that to deal with probate proceedings, the ideal moment is that of its formalization, either by judicial or extrajudicial means, through a public deed, drawn up in a notary's office. However, it is not possible to confuse the assets with the probate proceedings, given the peculiarities of each one.

The assets are the patrimonial mass, a depersonalized entity, which represents the inheritance, either judicially or extrajudicially, whereas the probate proceedings are the detailed description of the assets of the deceased, the one that guides the administrative or judicial procedure aimed at the partition, according to articles 610 to 646 of the CPC (Gagliano; Pamplona Filho, 2018).

In the view of Venosa (2017), the probate proceedings resemble a sentence, because in theory it is the pronouncement that ends the acknowledgement stage. In this case, to be able to divide the assets of the deceased, the probate proceedings must present a detailed description of the assets, along with all debits and credits, so that through this *briefing*, it is possible to settle the obligations and if there is remaining capital, this is divided among the heirs.

1.1 Opening of the Probate Proceedings

For Gagliano and Pamplona Filho (2018), the probate proceedings inaugurate what is known as a universal judgment, that is, a single process in which it is intended to solve all the issues related to the death *of the deceased*, the formalization, and the transfer of the inheritance.

The Civil Code, in its article 1.796, defines that in the time lapse of 30 days, to be counted from the opening of the probate, the judicial probate proceedings must be instituted, before the competent court (Brazil, 2002). The Code of Civil Procedure, in its article 611, guides that both the probate and partition process must be filed from the opening of the probate within 2 months and finished in the next 12 months (Brazil, 2015).

It should be noted, however, that these deadlines are not peremptory, and may undergo changes ex officio, by the magistrate, or at the request of the parties (Venosa, 2017). However, if the deadlines are not respected, this will not make it impossible for the probate process from being filed, it will only incur in the application of sanctions, such as interest and late payment tax, depending on the legislation of each State, due to the non-observance of the deadlines, according to Precedent 542 of the Federal Supreme Court-STF (Diniz, 2021).

The competent court to probate the assets, according to the principle of territoriality, will be the place of the last residence *of the deceased*, according to article 1.785 of the Civil Code (BRAZIL, 2002). In case of the omission of this information, according to the situations indicated by article 48 of the Code of Civil Procedure, the court to probate the assets may be the one in the place of one or several of the immovable property, or even in the territory where there is any asset of the *deceased* (Brazil, 2015).

An important remark is also made regarding the piece that starts the probate proceedings process, which must be the initial part or initial requirement, which is distinct from the inheritance petition (VENOSA, 2017).

The petition for inheritance is the right of one or several heirs against the one who owns the entire inheritance, that is, it is configured in the claim of the one who really considers himself heir, being forbidden the institution by the legatees. Its purpose is the recognition of the status of the succession and, consequently, to ensure that the hereditary share that belongs to him is considered, if obviously, the probate proceedings have not been completed. Otherwise, this claim to rights is done when the probate proceedings have already been closed by oversharing (LÔBO, 2018).

Lôbo (2018) says that it is an autonomous action, which can be filed in parallel with the probate proceedings action, without prejudice to anyone.

1.2 Legitimated to Probate Proceedings

With the death of the *deceased*, a provisional executor will figure in the process. Later, the executor, it is, the responsible for the probate, will be formalized. (Gagliano; Pamplona Filho, 2018).

Thus, it is provided in articles 613 and 614 of the Code of Civil Procedure that until the effective executor commits with the probate proceedings, the assets will be in the possession of the momentary executor, who will represent the patrimony either in passive or active way (Brazil, 2015). The ones that can be temporary executors, according to what is designated in article 1,797 of the Civil Code, are equivalent to those legitimated to probate proceedings, such as the spouse or surviving partner, the heir who is already in the possession of the assets, or, coexisting others, the eldest, or the person trusted by the magistrate (Brasil, 2002).

As for the legitimacy to probate proceedings, Articles 615 and 616 of the Code of Civil Procedure observe who is responsible for requesting the probate proceedings, being under the responsibility of the one who is in possession or administration of the assets, the surviving spouse or partner, the heirs and / or legatees and their assignees, the executor of will, the creditors of the heir, of the legatee or of the deceased, to the Public Prosecutor's Office or Public Treasury, or even to the judicial executor, but it is indispensable for everyone to prepare the application with the death certificate of the deceased (Brasil, 2015).

It urges to mention that the one who has a single heir to probate, although common sense understands that the probate proceedings are not necessary, this rule does not apply, being obligatory to conduct the probate proceedings, even in the situation of single heir. This is due to other figures that may be recognized, such as the creditors of the deceased, the Public Treasury, among other heirs (Diniz, 2021).

Once the probate proceedings are requested, it will be up to the magistrate to appoint an executor according to what is expressed by article 617 of the Code of Civil Procedure (BRAZIL, 2015), which will not be entitled to remuneration or for the probate proceedings' costs; unless it is a dative executor, who does not represent in any way the inheritance (Diniz, 2021). He will be responsible for the administration and representation of the inheritance, according to articles 618 and 619 (Brazil, 2015).

The first declarations of the executor must be made within 20 days, from the date that the commitment was confirmed and, soon after, the citation of the interested parties to express themselves on the procedural terms (Brasil, 2015).

The first declarations are the petition or other document, signed by a legally constituted attorney, containing the name and full data of the deceased one, the heirs, the surviving spouse, as well as the classification of the heirs and the degree of relation with the executor, the relationship of the assets of the assets, both immovable or movable, as well as money, jewelry, debt securities with the Public Treasury, active and passive debts and shares. In short, the first declarations must comply with article 620 of the Code of Civil Procedure (Brazil, 2015).

On the other hand, the Civil Code, in its article 1.991, says that from the signature of the probate proceedings' commitment, the responsibility will go on until the time of the homologation of the sharing (BRASIL, 2002).

The executor who does not comply with his duties will be responsible for the removal at the request, being deposed from the assets, being mandatory his delivering the goods to the alternate in the same act. If there is resistance, he may be obliged under a search and seizure warrant, return of assets in his possession, without prejudice to financial penalties, according to articles 622 to 625 of the Code of Civil Procedure (Gagliano; Pamplona Filho, 2018).

1.3 Probate Proceedings: Possible Ways

The opening of the probate proceedings can occur in two ways: extrajudicial and judicial. In both cases, Venosa (2017) states that the parties must be duly assisted by their lawyers.

In out-of-court probate proceedings, the parties need to be fully capable, of legal age, in agreement and assisted by their lawyers. This extrajudicial probate proceedings will be drawn up through a public deed, in any Notary Office (Brasil, 2015).

However, in situations that are contrary to those mentioned, that is, if the parties were incapable, under legal age or any of them is not in agreement or assisted by their lawyer, the probate proceedings become mandatorily judicial (Brazil, 2015).

1.4 Valuation Of Assets

Gonçalves (2013) declares that the valuation of probate assets is to serve as a basis of calculation of transmission taxes as well as to allow the correct sharing of assets.

Thus, after the initiation of the probate process, in accordance with article 630 of the Code of Civil Procedure, the assets are evaluated by an appraiser and/ or judicial expert of the district itself, or in the absence thereof, by an expert appointed by the magistrate (Brasil, 2015).

The appraiser and / or expert will present a report with the calculation and detailed description of the assets and the judge will order the parties to be summoned to give their opinion within 15 days, in accordance with article 635 of the Code of Civil Procedure (Brasil, 2015).

After this, having the values been accepted and the challenges been resolved, the term of the last declarations will be drawn up, following the sharing process, proceeding to the calculations for the purpose of payment of taxes (Brazil, 2015).

Diniz (2021) adds that taxes must meet the nature of the probate, the value of the assets, the value corresponding to the debts, the assets collected (which are excluded from the calculation), the matrimonial property regime, among other specificities of this probate process. Once the calculations are made, the interested parties will again be called in court to be heard, as well as the Public Treasury.

Gonçalves (2013) makes an important reflection regarding the excuse or not of the evaluation with regard to the acts of the Public Treasury, because when you have proof of the value of the goods registered with the Municipal Public Power, through the venal value, to carry out the collection of the Tax on Urban Territorial Property - IPTU; or, the value of rural properties, registered with the National Institute of Colonization and Agrarian Reform-INCRA; or even, if all the heirs are capable and the Public Treasury agrees with the value attributed in the first declarations, on the fiscal perspective, this evaluation becomes dispensable.

After these proceedings, Diniz (2021) explains that, accepting the objections, the judge will refer to the accountant, so that the necessary measures are analyzed and taken. Subsequently, the magistrate will judge the calculation of the tax (Article 638 of the Code of Civil Procedure) by judgment and request the issuance of the guides for the due payment and after the taxes are paid, the sharing is deliberated (Diniz, 2021).

"The probate proceedings end, therefore, with a judgment of merit, which is the judgment of the calculation of the tax, initiating the sharing" (Diniz, 2021, p. 437). In this phase the judge will provide the parties with the formulation of the requests regarding the inheritance assets of each one (Gonçalves, 2013).

1.5 Payment of Debts

For Diniz (2021), it is in the probate proceedings process that one has all the calculation of the assets and the shares related to each of the successors can be earned if the conditions established by the Civil Code are met according to the order of privileges.

It is important to clarify that the Public Treasury does not need to qualify in this order of privileges specially because no sentence will be told without the proof of tax payments being attached in the process, according to article 192 of the National Tax Code (Venosa, 2017).

For Mazzei (2021), this proof of tax payments does not operate in the sense of proving the payment itself, but rather to certify the fiscal regularity of taxes, related to the assets.

Murta and Carvalho (2017) say that the Transmission Tax *Causa Mortis* and Donation tax incidence can occur in two moments; in the first, by the donation when the payment occurs in life with the effect of inheritance donation to the heirs with the owner still alive; or, in the second, after the death of the owner of the inheritance (*causa mortis*). Also, for the process to have its due judgment and sentence, the proof of payment of the tax referring to the assets must be added to the file.

Nevertheless, regarding the rebate of the Transmission Tax *Causa Mortis* and Donation on the value of the inheritance *(causa mortis*), it is worth mentioning that

some states have been charging the rate on all assets left by the *deceased,* without discarding the debts (Costruba, 2021).

However, the Federal Supreme Court has decided that the Tax of Transmission *Causa Mortis* and Donation can only focus on the value of the net inheritance, that is, of what will be transmitted to the heirs, excluding debts. For this reason, it is up to the heirs, whether in the judicial or extrajudicial probate proceedings, to request the exclusion of the tax by judicial decision, since the tax authorities and the electronic systems of the States require the collection of the tax on the total value, not allowing the manual exclusion of the debts of the assets in these systems (Costruba, 2021).

It is important to emphasize that the Civil Code of 2002 itself makes it clear in its article 1,847 that the calculation will appear on the assets existing at the time of the probate, since the debts and funeral expenses have been discounted. Thus, this article is in accordance with the understanding of the Federal Supreme Court, that the calculation of the Transmission Tax *Causa Mortis* and Donation can only focus on the value of the net inheritance, that is, after the debts have already been deducted from the assets (Brazil, 2002).

The order of privileges stipulated according to article 965 of the Civil Code are related to posthumous debts, those that arose as a result of the death, like court costs; expenses with the bereavement of family (spouse and children); debts *of the deceased*; tax credits, wages of domestic service employees, among others not expressed in the article (Brazil, 2002).

Therefore, the assets of the deceased are the responsible for paying his own debts. It means that the assets of the *deceased* will answer for the payment of the debts and not the assets of the heirs. In summary, the inheritance is the only responsible for the discharge of the debts (Gonçalves, 2013)

For this reason, if the debts take over the asset, the heirs keep being heirs, but without inheritance and without receiving anything. This happens because the debt is not transmitted to the heir, what is transmitted to the heir is only the net inheritance of the *deceased*. Now, if this has already been consumed by the debts of the deceased, the heir receives nothing, although the heir will not have to pay for anything either. If the net is positive, that is, inheritance still exist after the debts are paid, it is then divided among the successors (Gonçalves, 2013).

Maluf and Maluf (2013) complement that the debts of the deceased are the obligations contracted in life not by the heirs, but by the deceased himself, and logically, transmitted to the heirs because of the death of the deceased*, however, the obligation for the payment of the debts will be strictly of the inheritance and not of the heirs.*

1.6 Collations

The Civil Code (Brazil, 2002) provides that the descendants compete for the probate to the ascendants, who must equal the legitimate ones, conferring the values of the donations that received form the deceased when he was in life.

For Gagliano and Pamplona Filho (2018, p. 435), "such a process of conference of values, for equalization of the legitimate is given the name of *collation*". Gonçalves (2013) adds that the collation is a duty imposed on those who appear as heirs, since the donations -whether to ascendants or descendants - matter in what is called the advance of the legitimate.

Regarding its purpose, according to what is established by the Civil Code, article 2,003, the collation refers to the idea of equalizing, in the proportions, the legitimate ones among the figures of the descendants, spouse, donees, the ones who, at the time of the donor's death, no longer had the assets (Brasil, 2002).

The Code of Civil Procedure, between articles 639 to 641, determines some obligations to the heir, who is required to confer the collation by petition, or, commonly usual, by term in the file, describing the assets he received, and, in case of not disposing them anymore, then he should assign the value (Brazil, 2015).

The same situation occurs with the successor who has renounced or been excluded from the inheritance, and with the heir who has denied the receipt of the assets or the obligation to collect them. In the last circumstance, by judicial determination, the assets, object of the collection, will be sequestered, registered, and shared, or even, if the respective assets no longer exist, this amount should be regarded to the hereditary share of the heir in question (Brazil, 2015).

1.7 Evasion

Diniz reports (2021) that it is up to the executor to describe the assets of the deceased*, as* well as the heirs who obtain things in their domain or in the possession of others, and it is up to these to conduct the collection of donations received in life from the *deceased*. If such obligation is not accomplished perfectly by the executor or heirs, these will commit the evasion of assets, that is, the concealment of the patrimony, and will be prone to receive civil and criminal penalties.

In the conception of Gagliano and Pamplona Filho (2018, p. 434), "the idea is logical: those who have not been faithful to the truth, violating the duty to inform that derives from the superior principle of objective good faith, cannot pass unscathed."

Therefore, in the case of a legitimate or testamentary evader, civil penalties include the loss of the right over the property evaded, and the good must be returned to be shared among the co-heirs. If the good no longer exists, it is up to the evader to pay the value of it, plus losses

and damages to this correspondent, in addition to being excluded from the inheritance (Brazil, 2015).

The greatest punishment falls on the executor evader who will answer by double sanction; first, in what circumscribes the civil penalties and, second, his removal from the position of executor (Brasil, 2015).

In the criminal sphere, the evader will answer for the crime provided for in the Penal Code, in its article 168, of misappropriation, having his penalty increased by one-third, if it has received assets, in the characteristics foreshadowed by the Code (Brazil, 1940).

The Civil Code (Brazil, 2002), in its article 1.994, says that the determination of such a situation can only occur by action filed by the heirs or creditors of the inheritance.

1.8 Inventory

An inventory is understood to be a simplified method of probate proceedings (Gagliano; Plamplona Filho, 2018). It means the amicable division between the heirs, of legal age and capable and, when conducted under the terms of law, will be approved by the magistrate. It can also happen in cases where the value of the assets, if compared to the minimum wage, is analogous to or less than 1,000 (one thousand) salaries (Brasil, 2015).

Riva and Guimarães (2020) add that the judicial probate proceedings are processed under three rites, namely: judicial probate proceedings by the traditional rite; by summary inventory or by ordinary inventory. The first has a traditional character, is applicable when there are incapable heirs or testamentary dispositions. The second occurs in reverse to the previous one, because the summary registration will only be admissible if all the heirs are in legal age and capable, regardless of the value of the assets, provided that the division occurs amicably. And the third, by the common inventory, occurs when the assets are reduced to the value of a thousand minimum wages, no matter if the parties are incapable or absent.

Venosa (2017) says that the inventory as a simplified modality of what should be the probate proceedings. Obviously, the dispositions of this method have different objects, as far as value is concerned, but which could also have their formalities simplified, according to the process of inventory.

1.9 Negative Probate Proceedings

The semantics of the title already induce the answer of what is the negative probate proceedings, being understood that it is the lack of goods of the deceased. (Riva and Guimaraes, 2020).

Riva and Guimarães (2020) note that although Brazilian legislation does not make it mandatory to carry out the negative probate proceedings, the jurisprudence of the Courts sees it as an important procedural tool, not only to legally certify the absence of assets in the name of *the deceased*, but to safeguard the responsibility and incumbency of the other heirs regarding possible debts and other obligations, in addition to safeguarding legal certainty for all those involved.

As an example, the Court of Justice of Santa Catarina recognized the importance and feasibility of proving how the negative probate proceedings can be significant for the resolution of a dispute. In the first case, *in verbis*, the resolution took place in the appealing court, judged by the Third Chamber of Civil Law: "[...] Heirs who, at the time of the qualification, informed the absence of assets to be probate and fought for the extinction of the process. Inability to satisfy the debt proven with the addition of the negative probate proceedings [...]" (Santa Catarina, 2021a, n.p.)

In the second case, the importance of proving the negative probate proceedings also occurred in the appealing court, but with a decision before the Seventh Chamber of Civil Law: "[...] Negative probate proceedings. Opening of the probate proceedings with request for diligence to ascertain the existence of assets. Final petition communicating the failure to locate assets. Absence of evidentiary substrate and grounds to request the Negative Probate proceedings Declaration [...]" (Santa Catarina, 2021b, n.p.).

Gonçalves (2013) brings the idea that the negative probate proceedings have already been admitted by judges in exceptional situations, but that it is mandatory to effectively demonstrate the absence of assets to probate.

FINAL CONSIDERATIONS

Talking about death and its patrimonial, financial, and affective aspects has never been something common in the conversation circles because this subject is seen by many as something uncomfortable, that attracts bad luck and, especially, when it involves sharing of assets, in this regard it is even worse. Therefore, most people say it is not good to deal with post-mortem goods in advance.

The most curious thing about this is that individuals always tend to leave things to be solved later. As an example, try to deal with this subject in your home and guide a family member to do his probate planning in life. Tell him that depending on the type of probate planning chosen, this will only be valid after his death. Your relative can even seem interested in the subject and find it extremely relevant to be able to plan the destination of his goods in life, but will do nothing, either because of fear or superstition, except for rare exceptions.

The effective dilemma, however, will begin when the death of the owner of the inheritance occurs. In theory, one will always have some patrimonial, financial, or affective asset to share. In this situation, there will be heirs willing to fight to keep as much property as possible and thus numerous impasses and expenses will arise.

Research even points out that the value that is consumed in probate actions, when the parties have

nothing outlined in life and live a period of litigation, comes to represent 70% of the value of the assets, which is spent between lawyer, evaluation of the assets, procedural costs, and other expenses.

It is a fact that all this trouble will fall upon the heirs, who will waste time fighting and squandering their assets. Although many people do not think it is something good, planning in life is important, or else the reflections of this lack of planning will be felt in the future.

The great dubiety that you are having in this moment of reading is whether to do your planning in life or not, and what will that change in the probate proceedings process. The answers are simple. All individuals should plan the destination of their assets in life. Having a good lawyer, you will have a good orientation of what is the most efficient way to outline in life your assets, avoiding the dilapidations of these, as well as the disputes between heirs and the unfair division, besides other countless other factors.

Consequently, what this will change in the probate proceedings process is the key answer. This process will be solved in a truly brief time because the judge will only analyze all the planning left in life by the author of the inheritance and if everything is perfectly in accordance with the law, the magistrate will make the homologation of the probate proceedings. Therefore, the entire process is resolved with the utmost speed and each heir can take care of and be responsible for his share, as he pleases.

But pay attention to the fact that for the homologation to occur in court, it is necessary that this planning is well done, so do not hesitate to look for a good lawyer and analyze all the legal means to make this organization still in life. Otherwise, the probate process can drag on for years, as much has been said, due to the possible mistakes that may occur.

It should also be mentioned that the probate proceedings process is mandatory. Then, regardless of the value of the assets that the author of the inheritance had in life, the process must take place. Therefore, when you have everything outlined in life, all this bureaucratic part can be simple and easy to solve. Also, as was noted in the text above, many courts are opting even if the law does not oblige it, for the realization of the negative probate proceedings, to legally certify that the deceased had nothing in his name and the heirs will not answer for the debts, after all, the negative probate proceedings is to bring legal certainty to the heirs.

It also urges to clarify that amid the pain of the death of the loved one, the deadlines to probate proceedings run and when these deadlines are expired, there is incurrence of fines, interest, precisely because the deadlines have not been respected.

Despite this, death seems to be a heavy burden to be thought about during life, so, if you are the owner of what is to be an inheritance in the future, be attentive to these situations so that damage is avoided to your own assets, after all, death is the most concrete fact in human life.

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