

CHAPTER 1

Any Amount of Wealth is Enough to Destroy a Family

The Chadha Brothers – Could Thoughtful Succession Planning Have Avoided Their Deaths?

In November 2012, two brothers, Ponty and Hardeep Chadha, were shot and killed in a fierce gun battle at one of their family farmhouses in Chhatarpur, Delhi, in the Indian countryside. Kulwant Chadha, Ponty and Hardeep's father, had recently died without having left much clarity regarding how significant family business and personal assets were to pass to the next generation.

Accompanied by their bodyguards, Ponty and Hardeep were arguing over their inheritance and a settlement that had been brokered by their mother. The brothers were obsessed about a particular family farmhouse that their father had left to Hardeep. Ponty, the eldest son, had contributed hugely to the family business and believed he deserved the property. Hardeep felt that he had not only been bequeathed the farmhouse by his father, but that the overall deal on his father's estate brokered by his mother gave him too little.

For a family reported to have assets worth more than US\$10 billion, it would be hard to imagine that Ponty and Hardeep's father had ever dreamed that his sons would die in a gun battle over an asset of relatively irrelevant value.

8 *The Destructive Power of Family Wealth***Jessica Schrader – Do We Need to Do Our Planning Much Earlier?**

Jessica Schrader made a will in 1990 leaving her home, Southend Farm House in Essex, England, to her two sons. At her death at the age of 98, the house was worth just under US\$500,000. Two years before Jessica died, at age 96, she made a new will leaving the house entirely to her older son, Nick.

A court dispute between the brothers resulted. With legal fees of close to US\$170,000, Nick lost the battle, with the court reinstating Jessica Schrader's earlier will leaving the house to both of her sons in equal shares. The judge considered the bad feelings between the brothers, and Nick's perception that his parents had favored his brother Bill. Aggressive and violent, Nick had been jailed for assault, and was viewed as having exerted undue influence on his elderly mother, whom he had been caring for on a full-time basis, prior to her death.

One can imagine Jessica Schrader, in her 90s, being pressured into changing her will by her primary caregiver, her son Nick. Are only millionaires and billionaires at risk of having wealth destroy their lives and their families?

Nina Wang – Why it is Critical to Plan for the Worst, While Hoping for the Best

Nina Wang was a larger-than-life character and, at the time of her death in 2007, Asia's wealthiest woman, with assets of over US\$4 billion. Her husband, Teddy Wang, from whom she derived her wealth, had been kidnapped twice, and was never found after his second kidnapping in 1990. Disputes over Teddy Wang's wills made front-page news. A first will divided the estate between Teddy Wang's father, who had started the family business, and Nina. A second will left everything to Teddy Wang's father, and was ostensibly put in place after Teddy found out about an affair Nina was having. A third will, hotly disputed as being a forgery orchestrated by Nina, stated that Teddy had "one life and one love" and purported to leave everything to Nina.

A lower court found Teddy Wang's third will to have been a forgery, and suggested that Nina had been responsible for its creation. On appeal to Hong Kong's highest court, the third will was found to be valid, and Nina escaped the charge of forgery and ended up with Teddy's entire estate.

Nina died in 2007 also leaving a messy estate. Her *Fung Shui* master, Tony Chan, who was having an affair with the much-older Nina, presented a will suggesting that Nina left everything to him, contrary to what was stated in an earlier will executed by Nina, which left her estate to a family charitable foundation. After a long period of litigation, the will Tony Chan presented was found to have been forged, and the charitable foundation was determined to be the proper beneficiary of Nina's estate.

Jonathan Griffin – An Extreme Example of How Succession Plans Can Affect Family Members

Jonathan Griffin, wearing combat gear, caused thousands of pounds of damage to his brother's farm in Dorset, England. Furious at having been excluded from benefit under his father's will, the family farm having been left only to Jonathan's brother and mother, Jonathan's relationship with his brother, David, was clearly destroyed. Jonathan had worked on his father's farm, and was shocked at his father having left him out of a share, ostensibly for tax reasons.

Tony Marshall – An Example of the Potentially Dangerous Consequences of the Fact that We All Live Longer and Need New Approaches to Our Succession Plans

Tony Marshall, aged 88, exhausted his last legal appeal against a jail sentence for having defrauded his mother, Brooke Astor, a well-known New York socialite and philanthropist, who died at the age of 105. Tony Marshall was convicted together with one of his mother's lawyers, Francis Morrissey, Jr., who was also disbarred.

Sentenced to prison terms of one to three years, Marshall and Morrissey were found to have schemed together to siphon funds from Brooke Astor and alter her will, after she was diagnosed as having dementia and suffering from diminished capacity.

Uncle Law – Lust? Use Caution

Uncle Law, a Hong Kong resident, was 79 when he met a young woman from mainland China in Hunan Province. They soon married and had a son. Six months after mother and son received residence permits to move to Hong Kong, the couple divorced and Uncle Law lost custody of his son and his tiny, 150-square-meter apartment. Left with nothing, Uncle Law had been humiliated and abused by his wife who complained of his impotence and lack of financial resources in front of friends and family.

The Hong Kong Agency Against Abuse, a welfare service for the elderly, reported that as many as 100 Hong Kong elderly men had sought their help in 2013 as a result of problems with much younger wives from the mainland who had apparently entrapped them into marriage to obtain residence permits and their modest homes.

Roy Lam Man-chiu of the Agency Against Abuse was quoted as saying "Lust? Use Caution."

10 *The Destructive Power of Family Wealth***Gore Vidal – The Importance of Considering Alternative Beneficiaries Early on in the Planning Process**

The author Gore Vidal died in 2012 at the age of 86. In his original will, Vidal had left his entire estate (reportedly worth well over US\$40 million when future royalties from his books were included) to his long-time partner, Howard Austen, who ended up pre-deceasing Vidal, dying in 2003. Vidal changed his will in 2011, leaving his entire estate to Harvard University, a school he was apparently accepted into but which he never attended. His surviving family members, some of whom challenged the will, received nothing. Vidal's long-time housekeeper and chef, Norberto Nierras, also received nothing. He was reported as having said: "I'm 60 years old and had planned to stay with Mr. Vidal until I retired. I will have to go back to the Philippines, I cannot afford to stay in America. I didn't expect he'd leave me anything – other people are surprised he didn't. If Mr. Vidal did leave me something, I would be very, very grateful as it would help with my retirement in the Philippines, as I have a small pension."

Vidal, in his later years, was in a seriously declined physical and mental state, and according to members of his family, was suffering from dementia and other maladies with symptoms that included confusion and hallucinations.

The Maharajah of Faridkot – Can You Trust Your Trustees?

The Maharajah of Faridkot was depressed after the death of his only son. When he died a short time after, his daughters, the princesses, were stunned to learn that a will their father had ostensibly signed left them virtually nothing. The princesses had expected that the Maharajah would leave them his lands, forts, palaces, jewelry, precious stones, classic cars, and other assets worth several billion US dollars.

All of the assets of the Maharajah were apparently left to a group of trustees, with the eldest daughter of the Maharajah, the child who would have been thought to receive the largest portion of his estate, receiving nothing under the trust. Similarly, each of the Maharajah's widow and surviving mother received nothing under the trust arrangements. The youngest princesses, under the trusts, received a monthly allowance of US\$20 and US\$18, respectively.

Finally, after lengthy litigation, and by then in their 80s, the Maharajah's daughters succeeded in showing that the will had been forged by their father's "trusted" aides, who named themselves, together with the Maharajah's lawyers, officials, and other servants, as "trustees" of the Maharajah's estate, taking control of his wealth. In the 20 years of litigation, one of the princesses had already died, and part of the Maharajah's estate had been squandered by his self-appointed trustees who threatened to continue the case, claiming that the will putting them in control of the Maharajah's wealth was valid.

These are a few true stories among, sadly, many reported in the press on a regular basis.

In the case of Jessica Schrader, pressured into changing her will at the age of 96, a house worth less than US\$500,000 was what destroyed her family and her last years. Is it not a reality that those with less to pass on to the next generation have, in today's world, an even greater responsibility to ensure that what they do is not destructive? A small family business, a nest egg of savings, a piece of jewelry... all can have enormous importance to the younger generation and apart from value can carry with them perceived "messages" from the older generation that, if not sensitively handled, can leave generations of unhappiness. But did Jessica Schrader do anything wrong, leaving her home to her two sons in equal shares under her will? How could she have avoided coming under pressure to change things at a late stage in her life? Would an earlier transfer of the house to her sons, with Jessica keeping the right to live in it for her lifetime, have been safer?

The Chadhas had billions; the Schraders a few hundred thousand in the value of their mother's house. In both cases, families and relationships destroyed. For every family dispute we read about, many, many more take place outside the press. And how many situations have arisen where assets have been stolen, diverted, misplaced, or lost and no one in the family ever even found out?

If one child is a caregiver to an elderly parent and the other is not, is the caregiver entitled to a greater share of the inheritance? Are they able to abuse a position of trust and influence their parent into destroying family relationships, as occurred when Nick Schrader unlawfully influenced his mother to change her will?

The Nina Wang case fascinated Hong Kong and the world as it unfolded over the years. The press reported the kidnappings of Teddy Wang, the second of which was even rumored to have been engineered by Nina herself. Nina's alleged extra-marital affair, which had resulted in Teddy excluding her from benefitting under his will, also became a topic of gossip. But stripping away the dramatic elements of the story leaves a number of clear questions. What did Teddy Wang ultimately want in terms of where the family business he owned, which had been started by his father, would go in the event of his death? Were there steps Teddy, or perhaps better, his own father, could have taken to keep the business away from Nina if that was their intention?

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Nina ended up being a good steward of the business after Teddy's death. Despite her eccentricity, the value of the business grew to over US\$4 billion by the time she passed away. But could she have also considered succession plans that would have made it less of a risk that her *Fung Shui* master and companion would get it all by forging her signature on a will purporting to leave everything to him? As it turned out, even lavish gifts to her young lover were not enough to stop him taking illegal actions in an attempt to get it all.

Vincent Astor's father, John Jacob Astor, died in the sinking of the Titanic. Brooke Astor married Vincent, the heir of one of the wealthiest families in the world, in a time of reported financial distress after the death of her second husband. Vincent Astor was reported to be a difficult individual and husband and, perhaps fortunately for Brooke Astor, died only six years after their marriage, leaving her most of his wealth.

Anthony (Tony) Marshall, Brooke Astor's son from her first marriage, was reported to have had a troubled relationship with his mother, at least in part deriving from the abusive relationship of Brooke Astor with Tony Marshall's natural father. Marshall, who took the name of Brooke's second husband, also had a reportedly terrible relationship with Vincent Astor.

When Vincent Astor died in 1959, he left Brooke Astor US\$120 million, half to her and half to a foundation she was to run. An enormous sum in 1959, Brooke Astor became one of New York's top socialites and philanthropists. As she aged, Brooke Astor was reported to be distant from her son, whom she referred to as "not an Astor," largely excluding him from participation in her philanthropic work and otherwise. While Tony was involved in managing a portion of his mother's money, Brooke planned to give most of her own money to charity rather than to him.

Over the years, and prior to her death at 105, Brooke Astor became more and more dependent on the care of her son and of others. Diagnosed with Alzheimer's, Brooke Astor's friends and several members of her family were concerned at what they viewed as "elder abuse" taking place at the hands of Tony. One of Tony's own children, Philip Marshall, initiated legal proceedings to have Tony Marshall removed as his grandmother's guardian. In the proceedings that followed, both of Tony Marshall's sons testified against him. The proceedings led not only to Tony's removal as guardian, but

eventually to the filing of criminal charges against him and a lawyer involved, and their conviction and jailing.

Over her lifetime, Brooke Astor had executed more than 30 wills and amendments, and as the courts ultimately found, at least some of these were executed when Brooke Astor no longer had the mental capacity to understand her actions. Will amendments favoring Tony Marshall were made, according to Brooke Astor's own lawyer, at least in part on the instructions of Tony himself. Evidently, Tony Marshall was constantly working on his mother and her lawyer to make amendments in his favor.

Tony Marshall was ultimately convicted of having taken advantage of his mother who, suffering dementia, became more and more dependent on him. Among others, Tony Marshall was alleged to have encouraged Brooke Astor to change her will in his favor and, during her lifetime, to have helped himself to his mother's art, jewelry, and money.

Tony Marshall did manage to get himself released from prison for medical reasons after only two months of incarceration, but at the age of 89, it is hard not to conclude that wealth destroyed Tony Marshall and his relationships with his mother and his two natural children. But, in this saga, was Tony Marshall the only "bad guy?" Are there lessons here for all families, particularly in a time of changing demographics, and the reality that we are all living much longer than was the case in the past? What of the increasing frequency of cases of dementia and related problems facing the elderly?

I can envision conversations between Brooke Astor and her only son in the years leading up to her death being more about money and what Tony would ultimately get than about anything else. I believe that there are too many families where aging parents spend more time than they should worrying about succession issues that should have been concluded years before. Should someone who is in hospital be surrounded by lawyers and children positioning themselves for their inheritance rather than by family members who are there because they want to be? Should children and grandchildren feel they need to pay attention to their elders because they feel the need to protect their financial interests?

Would Brooke Astor have been able to reduce the risk of wealth destroying her family by letting her son know, early on in his life, that she would *not* be giving him much, her desire being to benefit charities with the bulk of her assets? Would Tony Marshall have

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been encouraged to build his own career rather than be so focused on his possible inheritance? Would the expectations of Tony's third wife, disliked by Brooke Astor and by most of the press covering the story, have been different had Astor been much clearer early on as to what Tony would get and when?

Brooke Astor remembered her daughter-in-law in her will, leaving her two used, size six mink coats, knowing very well that Charlene Marshall could never fit into them.

At what age should children of wealthy parents receive a good chunk of what they may ultimately get? With the death of Brooke Astor at the age of 105, Tony Marshall was 83 by the time he was able to inherit. Stealing from his mother was wrong, but under the unfortunate circumstances of the family, perhaps not that much of a surprise.

And were all of the lawyers and other advisors meant to be looking after Brooke Astor's interests really doing so, or were they listening to their future client, Tony Marshall, rather than focusing on the interests of his aging mother? Was Brooke Astor right to trust them? Perhaps Charlene, Tony's wife, was a gold digger. How can we identify and deal with "gold-digging" sons or daughters-in-law?

I have some simple philosophies about trust, advisors, and gold-diggers. First, don't trust anyone. Second, don't trust advisors. And third, it is best to assume that *all* your in-laws are gold-diggers (and that your children likely are, as well). It is not that no one is trustworthy. I believe, however, that if the right oversight is put in place, the possibility of someone taking advantage can be much reduced. It is pretty rare for anyone to truly have no conflicts of interest. Key is to understand and manage the conflicts of interest that exist. In succession planning and dealing with how assets pass from one generation to the next, the need for checks and balances is significant.

For any lawyer, trustee, or other advisor, it is too often the case that there is no client better than a dead client. A dead client does not question fees or fire you; a dead client does not complain about poor investment performance. A dead client takes what they know with them, and if there is no one else in or out of the family who has the information, the advisor may have been accorded too much trust. And what if the advisor is trustworthy but they themselves pass away or become disabled? Are the right succession arrangements in place for advisors and can their successors be trusted? A wealth owner needs advisors, but needs to fully understand his own ownership and

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succession arrangements in order to be in a position to ask the right questions.

Uncle Law, apparently along with many other elderly men in Hong Kong, was taken advantage of by a young mainland Chinese woman who seemed to be more interested in getting a visa to live in Hong Kong and getting hold of his very modest assets than in Uncle Law's well-being and happiness. Clearly, Uncle Law married a gold-digger. But to me, the safest approach is to assume that *everyone* is a gold-digger. When marriages take place, those involved are, hopefully, attracted to each other. Even in less extreme cases than that of Uncle Law, it is, to me, the whole "package" that comes into the picture – how your potential spouse looks; how tall they are; how fit; their personality; whether they are from a good family; if they have good career prospects and some money.

The question is not whether your potential spouse or son or daughter-in-law is a gold-digger, but rather the *degree to which* they are a gold-digger. And someone who is not a gold-digger today may well develop into one over time or when circumstances change. So, wealth planning is about recognizing this reality, and planning for the worst. Wealth owners need to constantly challenge their succession plans to make sure that they can withstand not only gold-digging spouses, in-laws, and others, but many, many other challenges to wealth and, more importantly, family relationships.

The elderly are particularly at risk. Uncle Law was seduced by the interest he attracted from a young mainland Chinese woman who married him, had his child, and moved to Hong Kong. Sadly for Uncle Law, she soon sued for divorce, child custody, and support – and won, leaving Uncle Law with nowhere to live.

Gore Vidal, perhaps, intended to leave his family out of inheriting any of his wealth, and perhaps also planned to leave nothing at all to his long-term caregiver. But maybe, had he undertaken the work involved in succession planning earlier, before the onset of dementia, things would have been different. Certainly, the potential for dispute and unhappiness would have been reduced had he put his arrangements in place at a time when he was more clearly in command of his faculties. And thinking of a "plan B" is always critical – in Vidal's case, he had originally planned to leave his estate to his partner, who ended up pre-deceasing him. This led to wholesale changes in his planning at a time of life when he, perhaps, did not have the ability to really think things through.

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Advisors are needed – but for the prudent wealth owner, understanding their own succession plan, and not allowing it to be kidnapped by advisors, is critical. In the case of the Maharajah of Faridkot, his substantial wealth fell into the hands of a group of “trusted” advisors who sought to exclude the family from any benefit at all.

Sometimes what happens is less dramatic, and less “black and white” – but perhaps the Maharajah of Faridkot’s succession provides an example of the risks families face in a world of conflicts of interest. I have seen numerous cases of succession and asset-protection planning where an obsession with tax minimization has led the family to a complicated approach they do not really understand and in which the advisors all too easily “kidnap” the family structures. The advisors are not quite stealing the money, but the structures end up resulting in a never-ending flow of fees with little ability for the younger generation to step in and turn off the tap. For me, no advisor should be free of appropriate oversight and, most importantly, free of the family stakeholders having a clear view of their actions, with the ability to make changes if the need arises. Do you *really* trust your advisor more than you trust your children?

Today, virtually every family is international. Family members may live in different countries or hold different citizenships, and investments are increasingly likely to be maintained cross-border. Divorces, political risk, ever-changing tax laws, and an almost unlimited number of other threats to wealth add to the burden for those seeking to maximize what can pass from one generation to the next. Navigating a world of growing complexity and transparency is increasingly difficult, forcing wealth owners into the hands of private bankers, trustees, lawyers, and a variety of other specialists who make their living from the needs of the wealthy. But does the wealth owner and his or her family really understand the structures that are imposed on them by their advisors, and the many hidden charges and risks associated with typical wealth-planning devices? Is it safe to rely on outsiders whose interests may be starkly different from those of the family involved?

Earning appropriate returns, protecting wealth, and minimizing taxes are all well and good, but have you, as a wealth owner, considered that your wealth can destroy your family? Despite that, most of us think we would be happier if we had more wealth; a sad reality is that all too often wealth destroys relationships, families, and the dreams of the younger generation. This destruction *can* be avoided.

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A wealth owner has responsibilities – and one of the most important of these is to really understand how one’s own wealth is owned and how the structures implemented work – both in terms of their suitability to address the objectives for which they were created and in terms of their real costs and what security, if any, they provide against known and unknown risks. Even more critical is to understand what succession plan is actually in place, and its potential consequences for the younger generation.

For those who put off their succession planning, understanding that no plan *is* a plan is also vital. In the event of death or disability, something will happen to your assets regardless of whether appropriate planning has been done. Have you worked out what will happen if you pass away? Who actually knows about the assets you have and where they are?

News about the difficulties of well-known families and the failure of their asset-protection and succession plans seems to be growing in frequency and drama. The problems we hear about cross geographies and cultures. It is simply untrue that families from one part of the world or of a particular religion are truly different from others. The notion that *we all love each other and do not fight and involve lawyers the way westerners do* is just that – a notion that is sometimes a misleading dream of the older generation, thinking that everything will just work out. The children may well show up, holding hands at dinner at their parents’ home every Friday evening, but sadly the children can also show up in the offices of their lawyers ready to do battle as soon as their parents are dead or incapacitated.

The stories we read about, while usually concerning the very wealthy and very famous, are sadly the same stories that plague every family, regardless of the level of wealth – because *any* amount of wealth is enough to destroy a family.

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