

### QUESTION

As Salaamu Alaikum I am married COP and need to make a shariah will ,how do i make it. But on the other hand i have also contributed towards the buying of the house. Shukran

### ANSWER

Since your marriage is registered in terms of the community of property regime, an Islamic Will is not valid according to the law of the land. However, despite this, your first move should be to sign an Islamic Will form and explain to your heirs that irrespective of your COP, they must ensure that after your demise, your assets should be distributed in accordance with the Shariah while the legal distribution will merely be on paper to satisfy the law. We have Islamic Will forms available. Secondly, it is essential that you have the COP cancelled. To achieve this, you will have to apply for a legal 'divorce'. Such a divorce will not affect your Islamic Nikah, but it will cancel the COP. When the wife applies for the divorce, the husband should not defend the action nor attend court. The court will then issue a decree of 'divorce'. When the COP is cancelled, your Islamic Will, will be valid and your estate will then legally be divided in accordance with Islam's laws of inheritance. The portion of the house which belongs to you will Islamically form part of your estate. Whatever share of the house belongs to you will be inherited by your heirs. A document will have to be drawn up to state how much of the house belongs to you. In fact, even before applying for cancellation of the COP, you should commit to writing how much of the house belongs to you and make this known to all concerned. This will prevent usurpation and ill-feeling after your death. Should you require further clarification, do not hesitate to write. Was-salaam A.S. Desai For Mujlisul Ulama of S.A.