

Battle For Inheritance: 'These people are hungry for money'

By Sarah Boesveld
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The only memento Betty has of her dead parents is a set of bookends emblazoned with photos of their cats. They're a reminder of the relatively good times, when her volatile family was at least somewhat calm and loving.

But those modest bookends were not bequeathed to her when they died. In fact, the 59-year-old B.C. woman found them in a Cranbrook consignment shop, where she says her older sister secretly unloaded much of her mother's furniture upon her death in 2005.

Her older sister had a four-year falling out with their always-difficult mother, who had been a child of the Holocaust, Betty said, then moved in with her after the ailing woman was diagnosed with a brain tumour as their father was on his deathbed. Less than a month after he died, she took her senile mother into a lawyer's office and had Betty stripped from the will, according to Betty. The youngest sister remained named as an heir.

"[My parents] always said it would be a three-way split and we never thought otherwise," she said this week from Airdrie, Alta., where she was visiting her son. "It never occurred to me that I would be taken out of the will entirely."

Betty, who did not want her last name published, launched a legal battle against her sisters and lost the case in January 2009, the judge siding with the sisters, who said it was Betty who had the falling out with their mother, not the eldest, and that it was Betty who disobeyed their mother's wishes on numerous occasions.

Manipulative fights over family inheritances have been on the rise over the past five to 10 years, litigators say, the battles agitated by rising property values and debt-ridden Baby Boomers, who have been forced to postpone their retirement due to dwindling savings.

"I am seeing more and more of these situations where the Boomers who are coming in for an inheritance need this money," said Les Kotzer, a wills and estates lawyer with Thornhill firm Fish & Associates, who specializes in managing and preventing family disputes. "They have lots of debt and one of the only ways [they think they can] pay it off is through the inheritance. They sell Mom's house: Mom paid \$25 grand for it 40 years ago; it's worth \$400,000 today, and there's your money."

On Wednesday, Statistics Canada reported that a 50-year-old employee in 2008 could likely remain in the labour force another 16 years — making age 66 or 67 the more likely age of retirement. A separate report, also released Wednesday by human resource firm Towers Watson, found that a worker's "pension freedom age," which was near age 60 before the global recession in 2008 "is now drawing close to a startling 67 years."

Meanwhile, Canada's Baby Boomers are expected to inherit approximately \$1-trillion over the next 20 years, according to the Canadian Inheritance Study, published by Decima Research in 2006.

That's one of the largest wealth transfers to a generation of Canadians in history, the Bank of Montreal's Retirement Institute said in a 2009 report on future inheritances. The same BMO report referenced a survey that found 30% of Canadian Boomers polled expect an inheritance from someone in their immediate and extended family.

But the aging population is living much longer than previous generations and a longer life can come at

increased financial cost. In the United States, retirement funds have been “obliterated” and it’s affecting family relations after a loved one passes, said Arline Kardasis, a Massachusetts-based mediator and co-author of *Mom Always Liked You Best: A Guide for Resolving Family Feuds, Inheritance Battles & Eldercare Crises*, published in May.

“The retirees in the U.S. today have been hit so hard by the stock market downturn, they don’t have the estate they thought they were going to have for themselves, let alone for their children,” she said.

Caregiving expenses can also lead to a diminished inheritance, she added, and often one of the children will step up and be the caregiver, a well-meant role that raises the issue of “caregiver equity” — a term that’s been used more frequently in recent years in the United States as caregivers and their families tussle over whether a child should be compensated financially for caring for an ailing parent.

Doris Benora, an Edmonton wills and trusts lawyer, says she’s seen an uptick in court battles between siblings over the past five to 10 years, and she thinks the economic landscape has something to do with it.

“There’s certainly a great increase in litigation where people fight about estates and I think for sure one of the contributing values is that property values have increased,” said Ms. Benora, a partner at Reynolds Mirth Richards and Farmer.

Alberta recently passed legislation that will make it easier for people who wish to dispute some aspect of a will to open it up and get changes made, provided they have proof that what was written in the will is not actually what the deceased wanted, Ms. Benora said. Before 2012, any written will is considered the final word and is not open to revisions.

Mr. Kotzer said there is no end to clients’ tales of “bitter, bitter fighting” between siblings, one of whom is usually accusing the other of “gaming” a parent to get a better cut of the inheritance or playing the part of the “waiter” — holding out for the parent to die so they can collect the money.

One woman went into hospital and gave the house keys to her children in the event of her death during surgery. She came home to find her furniture covered with stickers, each child laying claim to the items they wanted. Another woman he spoke with said her healthy brother would feign illness in front of his mother, who paid for a vacation to Arizona to help heal his cough and a new vehicle that would help him get around. It’s among the tales he chronicles in his 2009 book *Where There’s an Inheritance: Stories from Inside the World of Two Wills Lawyers*, which he wrote with colleague Barry Fish.

“We have people calling and the mother hasn’t even been buried yet and they’re asking, ‘How soon do I get my inheritance?’ ” he said. “These people are hungry for money.”

Psychologist Steven Hendlin also heard many dramatic tales while putting together his 2004 book *Overcoming the Inheritance Taboo: How to Preserve Relationships and Transfer Possessions*. But it’s important to remember the emotional baggage and family circumstances when trying to sort out inheritance battles, he said. They’re rarely cold-blooded efforts to reap financial gain and nothing else.

“To put it simply, there are very mixed and conflicting feelings [when a parent dies],” he said from Newport Beach, Calif. “This is what happens with everyone, it’s the common drama. Are some in debt because of the economy, or stupid decisions or they’ve been poor managers of money all their lives? Of course. But always, there’s the thought that ‘I don’t want to lose my parents even if it is a rocky connection.’ ”

Credit-counselling agencies across Canada have also heard from “waiters” who are banking on an

inheritance to help dig themselves out of debt.

While it's not new that a desperate person might consider accessing money this way, says Laurie Campbell, executive director of Toronto-based counselling firm Credit Canada, tough economic times have put the idea in more peoples' heads.

"I remember many years ago counselling a couple and the man was talking about his mother-in-law passing away and it sounded like they had a horrific relationship," she said. "I'm sure part and parcel of it was the fact that she probably saw him looking at her as a bit of a meal ticket."

Betty's older sister was also in deep debt and pining for a renovated home and nicer things, she said. During the falling out with their mother, Betty said her sister used to tell her she did not want to hear a word about the family matriarch unless it was to announce that she was dead and money would be sent over.

And despite being disinherited, losing the court case and no longer speaking to her sisters, Betty said she is glad to still be in touch with other members of her extended family.

"I didn't come out with the money, but I came out with the family," she said. "I lost two sisters, but like my husband said, 'Betty, those two sisters were always trouble for you. It's better that they're out of your life, but do you think they're happy? No, they're not happy. They never will be happy.'"