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Mutual wills - a nightmare scenario?

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Morrison J in Re Dale [1994] Ch 31 at [37]:

where two individuals have agreed as to the disposal of their property and have executed mutual wills in pursuance of that agreement, on the death of the first ('the first testator') the property of the survivor ('the second testator'), the subject matter of the agreement, is held on an implied trust for the beneficiary named in the wills. The survivor may thereafter alter his will, because a will is inherently revocable, but if he does so, his personal representatives will take the property subject to the trust.

3.2 The obligations to which the agreement gives rise

3.1.2 are only intended to encompass the property *which the survivor of us inherits on the death of the other*

3.2.2 *are not to prevent changes in the non-beneficial provisions of our Will nor changes in the non residuary dispositions of our Will and*

3.2.3 will cease altogether if our marriage ends during our joint lifetimes.

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Thank you,
any questions please email
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