

**ARE NEPHEWS AND NIECES OF PRE-DECEASED SIBLINGS OF AN
INTESTATE ENTITLED TO A SHARE IN THE ESTATE OF THE INTESTATE
SIBLING**

1. Are children of siblings who have pre-deceased an intestate (the Intestate) who has no other beneficiaries entitled to a share in the estate of the Intestate that which the childrens' parents would have been entitled to if that parent had been living at the time of the death of the Intestate?
2. There seems to be a general perception that children of the predeceased siblings would not succeed to the estate of the Intestate.
3. There are two Court of Appeal decisions on this point; decided one week of each other, which decided differently. One held these children are entitled. The other said they are not entitled.
3. The facts of the case which was decided in favor of the children are these.
4. The Intestate died a bachelor. He came from a family of seven siblings, three of whom pre-deceased him, leaving children, surviving them.
5. The issue was whether the children of these pre-deceased siblings would take in the estate of the Intestate if the parent of the children had pre-deceased the Intestate.
6. In Pulogasingam a/l K. Veerasingam v Paralogavathy a/p Veerasingam and 9 others, Rayuan Civil No: A-02(NCVC)(W)-536-03/2018 (VT Singam's case) the Court of Appeal held that the children are entitled to succeed to their parents share in the estate of the Intestate. In the subsequent case one week after this decision, the Court of Appeal held that the nephews and nieces of pre-deceased siblings are not entitled to a share in the estate of an intestate sibling.

7. This decision in V T Singam's case is based on a reading of Section 6, Section 7(1) and section 7(2) of the Distribution Act 1958. The words "child or children" in Section 7(1) is to be substituted by the words "brothers and sisters" as directed by Section 7(2). When so substituted, it clearly shows that the children of the predeceased sibling will take their parents' share in the estate of the Intestate sibling.
8. The law is the same in the United Kingdom and other common law countries; the children of the pre-deceased siblings of an intestate sibling will all be entitled to a share in the assets of the intestate.
9. Singapore has simplified the law. The Singapore law reads,
Section 7 Rule 6 of the Singapore's Intestate Succession Act
"If there are no surviving spouse, descendants or parents, the brothers and sisters and children of deceased brothers or sisters of the intestate shall share the estate in equal portions between the brothers and sisters and the children of any deceased brother or sister shall take according to their stocks the share which the deceased brother or sister would have taken."
10. This law is the same in **Victoria**, Australia and even in **Sabah**.