

**Que Pasa Grecia**  
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# ¿Qué Pasa?



## Que Pasa Grecia

### 2023 Update #8

#### What's New in Que Pasa Grecia

Since our last Update, we've added a listing for a house for sale with handicap access in Grecia Centro and a recommendation for a restaurant in Santa Gertrudis Norte. The Costa Rica National Arts Festival will be held in Grecia, Sarchi, Naranjo, and Palmares from 4 August to 13 August and the Sarchi flea market happens on 5 August. Go to [QuePasaGrecia.com](http://QuePasaGrecia.com) for details.

#### Rights of Survivorship—It's Very Different Here

We have alluded in other Updates to some of the surprises that can confront survivors upon the death of a spouse or partner. The issue of survivorship has been especially traumatic to several subscribers, who have recently been widowed. We are dedicating this entire Update to the topic of survivorship in Costa Rica.

We have compiled some information below that, we hope, will give you a general idea of what you may expect and how you may be able to avoid some of the stress and trauma should you suddenly



Que Pasa offers articles on local places to go, helpful how-to's, and general observations of life in the Grecia/Sarchi area.

**Click on the photo to visit our site!**



become a single adult survivor.

*Caveats: Every situation includes many individual circumstances and variations, which may certainly impact determining the best answer to your situation. We are not legal experts, this stuff is complicated, and "Your mileage may vary". Also, this is Costa Rica and rules, laws and interpretations of both change—sometimes quite frequently. Therefore, you should always be in contact with a lawyer for answers to your specific situation.*

**Access to Assets Upon the Death of Your Spouse/Partner**

**Trusts** (as we know them in North America), which can simplify the property transfer process, are not recognized in Costa Rica's legal system. Joint Tenancy as found in the U.K., U.S., and Canada is based on English Common Law, which stipulates that upon death of one of the two tenants, their share of ownership passes to the survivor is also not an option here. Joint Tenancy laws are not given legal recognition in Costa Rica, which uses a Civil Law jurisdiction similar to the legal concepts found in Spain and France.

Instead, Costa Rica uses a Tenants in Common classification, which basically stipulates that both parties each own half of the subject property or offers an incorporation alternative (covered later). With Tenants in Common, upon the death of one of the parties, the survivor must enter into the probate process in order to take ownership of the other half of the property (typically a home, vehicles, land, or income property). In addition, upon death and through probate, fees and taxes become payable on the half of the property owned by the deceased.

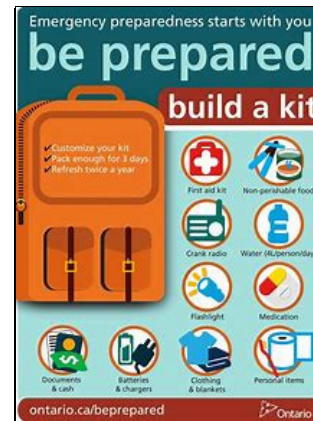
Unfortunately, probate can be a time-consuming, and costly legal process, which can also tie up usage or sale of the subject property(ies) until the probate process is completed. (Just imagine not being able to sell your house to get needed cash for 6-9 months, because you don't yet legally own all or part of the entire property.)

**Wills**—Having individual wills for both spouses or partners for property owned in Costa Rica is extremely important. A will enables the initiation of the probate process and directs the court on how the estate should be divided. Dying intestate (not having a will) delays the probate process and forces the court, not the surviving partner, to determine how it thinks the estate's assets should be divided.

**Transfer of Assets: Tenants in Common v. Corporations**

**Tenants in Common**—If a couple's assets were owned separately by a spouse or partner, or even if they were owned jointly (Tenants in Common), legal use or access to them will be "frozen" very shortly after the death of the owners or one of the owners. This includes: homes; undeveloped property; commercial income property; and vehicles. (If there is a mortgage on the property solely in the name of the deceased, it is the norm to have the bank call the loan. This would likely make it difficult to impossible to come up with the mortgage balance in order to be able to keep the

Plan now to avoid unpleasant surprises later.



Check out the US Embassy site for hurricane preparedness info. They seldom make landfall here, but the effects show up for sure.



**He did it! Aldair is cancer free, just in time for his 21st birthday!**

It's been a rough year for him and his family, and while he is cancer-free, he will be continuing chemo for the next 2 months. We are still fundraising for father Romeo and family thru August. Clicking on the photo will take you to the GoFundMe campaign to help. Every cent helps!

home.) In order for the transfer of title (full ownership) to the surviving spouse or partner for assets other than those held by a bank, they must go through the lengthy probate process and all applicable taxes and legal fees must be paid.

**Corporations**—If the home and/or other properties are included in an active (income-producing) or inactive (non-income) corporation with both spouses as the registered corporate officers, the title immediately passes to the surviving officer (the surviving spouse or partner). These assets will not be frozen, no taxes or probate are required and major legal expenses are avoided.

**Vehicles, Both Parties on Title** - Your editor been advised that due to liability issues, it is best to not include a vehicle in a corporation. Therefore, it is recommended that when a family vehicle is purchased, the title of ownership names both partners. This puts the vehicle into the category of Tenants in Common, which allows the surviving party to simply change the insurance policy solely into the name of the surviving party upon the death of the other. Probate fees/taxes will still be applied, but only to the half of the vehicle's value previously owned by the deceased, and the surviving partner will immediately have insurance coverage once the carrier is notified (and the vehicle will still be covered for any claims until the revised policy is formally executed).

**Vehicles, Deceased Owner on Only Title**—if the vehicle title is registered solely in the name of the deceased, the vehicle's insurance policy will be cancelled, and the vehicle cannot be re-insured or driven legally until the probate process is completed or well along. (Here is a likely scenario where a perfectly drivable and necessary mode of transport for the surviving party must sit in the garage 6-9 months, because it has no insurance, cannot be driven legally and cannot be sold.) Probate taxes/fees will be calculated on the entire value of the vehicle. (If the vehicle title is registered in the name of the deceased, you may get lucky and have your vehicle's insurance policy renew about the same time as you are far enough down the road during probate.) In any case, it is probably best to assume that you will need to cancel the current insurance policy and buy new coverage for the vehicle.

### **Banks and Credit Unions**

Banks and credit union accounts are not subject to probate. Unlike the U.S. and Canada, there is no such thing in Costa Rica as a joint bank account or joint certificate of deposit. Bank accounts, certificates, and probably most other institutional investments do not allow more than one person to own them (but beneficiaries are commonly named when the accounts are created). Upon providing a legal copy of the death certificate of a spouse or partner, each of your Costa Rica banks or credit unions will generate a letter to appoint you as the beneficiary (usually you are already named in the initial account documents, making this easier) and they will assist you, the beneficiary, upon request to "promptly" acquire access to these assets.

Notification of all death of citizens and legal residents are sent by the attending physician, hospital or hospice to the Registro Nacional and posted there. Costa Rica financial institutions have programs



You can get there from here  
- if you have a lot of time.

that daily sweep death notifications on the Registro to match them to account holders. There is a delay of a day or often days between the death and the financial institution receiving notification and actually freezing the decedent's accounts, which they are obligated to do by law. This delay period provides an opportunity for the beneficiary to access the decedent's accounts and transfer or withdraw funds from these accounts. While this is a bit of a legal gray area, it is a very common practice in Costa Rica allowing the beneficiary (surviving spouse or partner) to obtain funds to live on until the account assets are released to them by the financial institution. This speaks highly for both spouses having access to up-to-date account information (including passwords and debit cards) as well as having their own matching accounts at the same institution as the decedent, making access to and/or transfer of funds possible.

### Other Important Notes

1. Inactive corporations are created primarily to provide owned property with liability protection. While corporations do pay some annual taxes and fees, they have an additional major benefit upon the loss of a spouse or partner with limited exposure to probate, transfer delays, transfer taxes or major legal costs. Corporations have in the neighborhood of \$225 of annual inactive corporation taxes, plus the one-time initiation cost of around \$1,000 to set up the corporation, record it, and create the books. Compare this to the average probate costs in note #5 below.
2. There will be some legal fees required to change and record the new officer(s) of the corporation upon the death of one of the officers.
3. Probate in Costa Rica will typically take anywhere from six to nine months.
4. In Costa Rica, remember that it is the vehicle and not the driver, that is insured.
5. Most of probate's legal fees are predetermined by sliding-scale formulas. Probate property values are based on municipal property tax valuations. Total probate legal costs and court transfer fees are significant and will, generally, average somewhere between 9-13% of the municipal property valuation. For example, a \$250,000 house and land, you are talking about around \$25,000 for probate costs. For a home and property valued at \$350,000, probate legal fees and taxes should be closer to \$40,000.
6. It is not uncommon, when purchases of homes and vehicles are being made, your lawyer will not mention the costs of probate or the long-term advantages of placing your home in an inactive corporation and a vehicle with both partners on the title. It is always a good thing to compare long-term costs and discuss how you will take title before completing your transaction.

**"Pan comido"**

Literal meaning: eaten bread

Actual meaning: when something is just too easy.

*Thank you, Isabel Arguello, for your continuing contributions.*

*Isabel teaches Spanish and does translations.*

Find out more about Isabel on the  
[QuePasaGrecia](#) website.

“Happy trails and plan ahead,”

D. Davis, editor

Diane Cooner, webmaster

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