Inquiry on notarization of will made out of China

Description

The following is an inquiry I receive from a HK lawyer regarding notarization of wills. As it may be a general issue among people living outside China mainland, I publish the question and answer here for your reference.

Dear Sirs,

I am a Hong Kong solicitor. I have a client who want to make a will in Hong Kong but she has property in Shanghai.
I will write a will for her. When should the will be notarized? Before the death or after the death – what is the difference.
Can the will be notarized in Hong Kong? How much to get the will notarized? Can you tell me as much as possible.

Regards.
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Answer:

Shanghai Landing Law Offices

First of all, under pertinent Chinese rules on choice of law, assuming that your client is local Hong Kong resident, the applicable laws governing the form and validity of your client's will will be the laws of Hong Kong. Accordingly notarization will able to be done in Hong Kong.

as to when the will should be notarized, my personal understanding is that you cannot notarize a will after the maker dies. Here in China, a will can only be notarized before the maker dies since the notary public will have to see the maker signing the will. Notarization in China is to witness the genuineness of the making of the will.

The will can be notarized in Hong Kong.

Jason Tian

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