

# CASE STUDY

## Legal Risks in Property Sales Involving Deceased Estates

# DECEASED ESTATES AND THE IMPLICATIONS ON PROPERTY TRANSFERS



JUNE 2025

Bellingan Muller Hanekom Inc

Presented by: Marolene Groenewald & John Havemann



# Why Should Estate Agents Care?

Many property sales involve deceased estates.

Ignoring legal ownership can result in invalid sales.

You can lose commission, clients, or even face legal action. Protect yourself and your clients through proper checks.

# Real Scenario: What Went Wrong

- Seller mandates agent to sell property.
- OTP signed; buyer and agent excited.
- Seller also buying a new home using proceeds.
- Conveyancer discovers seller's late husband is co-owner.
- Estate never wound up — 30 years ago!
- Married in community of property; 5 children are heirs.



# Legal Red Flags

Title deed not solely in seller's name.

No will - intestate succession applies.

OTP does not indicate estate as co-owner

Seller does not have full legal authority to sell.

# Laws That Apply

- Administration of Estates Act 66 of 1965
  - Estate must be reported to the Master.
- Intestate Succession Act 81 of 1987
  - Surviving spouse + children inherit.
- Married in Community of Property
  - Spouses jointly own all assets.



# Consequences

- ✗ Transfer delayed
- ✗ Sale may collapse
- ✗ Buyer frustrated
- ✗ Agent commission at risk
- ✗ Potential misrepresentation or fraud
- ✗ Conflict among heirs

# Resolution in This Case

- ✓ Letters of Executorship issued
- ✓ Seller able to act on behalf of estate
- ✓ Sale eventually completed
- ⚠ But with significant delays and stress



# What Estate Agents Should Do

## Steps to Prevent this:

- Ask about marital status and past ownership.
- Check for deceased co-owners.
- Request documents:
  - title deed, death certificate, letters of executorship.
- Involve conveyancer at mandate stage.

# Ask These Questions

Were you ever married?

Were you married in community of property?

Did your spouse pass away?

Was the estate reported to the Master's Office?

Who is listed on the title deed?



# Tools You Can Use



Title deed search via  
Deeds Office



Master's Office  
deceased estate  
look-up



Legal document  
checklist



Professional support  
from conveyancing  
attorneys

# Tools You Can Use

- Title deed search via Deeds Office
- Master's Office deceased estate look-up
- Legal document checklist
- Professional support from conveyancing attorneys
- CMA search



# Key takeaway

“You can’t sell what doesn’t legally belong to the seller.”

Be legally aware.  
Know when to ask.  
Know when to refer.

You are more than just a salesperson. You guide clients through legally binding transactions.

Do the checks.

Ask the questions.

✓ Protect the transaction.

✓ Protect your commission.

✓ Protect your reputation.