28 June 2024

WHAT HAPPENS WHEN THE OWNER OF THE PROPERTY PASSES AWAY

Should you receive a mandate to sell a property of which the owner has passed away, you must ensure that the person granting the mandate and signing the contract on behalf of the deceased person, is indeed authorised to do so.

Section 13(1) of the Administration of Estates Act provides that no person shall liquidate or distribute the estate of any deceased person, except under letters of executorship granted by the Master. It is thus clear that no person can act as an executor before being issued with a letter of executorship by the Master.

Any sale agreement dated prior to the date on which the letter of executorship is issued by the Master, will be null and void.

When preparing a sale agreement, it is therefore of the utmost importance that, as property practitioner, you ensure that the agreement is entered into by the parties after the date on which the letters of executorship have been issued by the Master.