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CO-OWNERSHIP AND THE DIVISION OF THE PROPERTY

When two or more persons purchase a property together, they become co-owners of that property. There are two types of co-ownership, namely free co-ownership and bound co-ownership. In a free co-ownership, any of the owners may insist, at any time, that the co-ownership be brought to an end, and the property be divided between the parties. In a bound co-ownership, another relationship ties the parties separately from their relationship as co-owners, for example a marriage or a partnership.

In the recent case of *Crawford v Goodman* (21/37617) [2022] ZAGPJHC (1 July 2022), the parties were in a romantic relationship from 2017 to 2020, during which they decided to purchase a property together. It was also established that the parties were in a universal partnership as they pooled their risks and assets together. Both parties, therefore, had an undivided half share in the property that they purchased as co-owners.

Once the romantic relationship between the parties ended in 2020, Goodman moved out of the property. Crawford wanted to end the universal partnership as well. Goodman argued that even though the romantic relationship has ended, the universal partnership still existed. The fact that Goodman moved out of the property meant that the universal partnership had also ended, because the parties stopped putting their risks and assets together.

Crawford then applied to the court for a remedy to separate the co-owned property. The remedy is based on the principle that every co-owner of a property is entitled to insist on the separation of the co-owned property at any time. According to South Africa's common law, the remedy will always be available in the case of a free co-ownership but will never be available in the case of a bound co-ownership.

Because the romantic relationship and the universal partnership had ended, Goodman and Crawford were now free co-owners. The court held that the remedy was available to Crawford, and each party's half share of the co-owned property could therefore be sold separately.