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COMPLEXITIES OF DEALING WITH EX PARTNER'S HALF SHARE

In the case of Bosman v Hoffmann (48330/2021) [2022] ZAGPPHC 588 (12 August 2022), Bosman and Hoffman each bought a half share in a property. Ms. Hoffman ran a creche from a portion of the property. When the relationship ended Mr. Bosman moved and instituted legal proceedings against Ms. Hoffman for termination of joint ownership of the property, and payment of an outstanding amount owing to him in terms of an agreement between the parties.

They entered into a settlement agreement that was made an order of the court where a third party would purchase Mr. Bosman's half share and Ms. Hoffman to pay the amount owing. She paid the amount owing to Mr. Bosman, however the half share purchaser's bond application was cancelled, as the bank required that a new bond application be done by Ms. Hoffman and the third party, and they would not allow a substitution of debtor.

Mr. Bosman then approached the court for an order for termination of joint ownership. However, Ms. Hoffman contended that she would suffer great economic and financial distress should she be forced to dispose of her half share in the property. This included relocation costs of her business, rental increases and that she may be forced to close her business should she not find a suitable property in the same area. The court held that economic distress is not a defence to bind Mr. Bosman as a co-owner in perpetuity and his application succeeded, and it was ordered that the property must be sold and the proceeds divided between the parties.