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HALF-SHARE TRANSFERS: PART 1

A half-share transfer of a property oftentimes leads to the incorrect impression that a quick and easy erasure of a name will take place. However, a half-share transfer can be likened to a full-share transfer and the usual requirements relating to rates and taxes, homeowner's association levies, sectional title levies, mortgage bond cancellation costs and mortgage re-registration costs, and transfer fees will find application.

The Alienation of Land Act requires that a sale agreement must be in writing and signed by both parties involved in the share transfer. SARS may request two estate agents' valuations to verify the current market value of the property. This will also determine the transfer duty calculation or, alternatively, the transfer duty exemption, which will be submitted to SARS.

It is a common misconception that if a purchaser has agreed to purchase a half-share of a property valued at, for example, R1 900 000 for R950 000, they would fall under the threshold of transfer duty. However, transfer duty is calculated on the R1 900 000 and only then divided by two. (In this example, the transfer duty on R1 900 000 is R35 625, so the purchaser will pay R17 812.5 as transfer duty.)

However, transfer duty is not payable when the half-share transfer is the consequence of inheritance or in terms of a divorce order. Transfer costs or attorney fees will be calculated on the market value of the half share. In other words, if the value of the property is R1 000 000, the transfer fees are calculated on the value of R500 000.

In certain circumstances, a share can be transferred through an act of endorsement on the holding title deed only. For example, when the parties are married in community of property to each other and one of the spouses dies, the surviving spouse, having acquired the other share through lawful means, may apply for an endorsement on the holding title. It is of utmost importance to consult with a conveyancing attorney first in order to ascertain whether a half-share transfer or endorsement procedure will have to be followed.