08 April 2022

INHERITANCE AS MEANS FOR CONCLUSION OF PURCHASE AGREEMENT

There are various ways in which a purchaser can obtain funds to pay for the purchase of a property, one of which is funds from an inheritance.

This principle was discussed in the court case of Patrinos (N.O) v Theresa (2021). In this case, there was a suspensive condition in the sale agreement that the sale of the property would be subject to funds that had to be obtained from an inheritance. The purchaser wanted to cancel the sale agreement and when the seller refused, she alleged the suspensive condition was not fulfilled. The court had to interpret the words: "obtaining funds from an Estate" and held that the word "obtain" did not mean the funds had to be paid, but merely that the Master had given permission / or approved the Liquidation and Distribution account. The agreement was found to be valid and binding.

It is clear from this case that the courts lean towards binding parties to agreements they have signed and do not easily declare agreements void.