**If you are approached by someone to sell a property which is owned by a person who has passed away, please remember the following:**

1. You need to deal with the Representative/Executor of the deceased's estate who has been appointed by the Master of the High Court and who is authorized to act on behalf of the deceased in terms of a Letter of Authority/Executorship. If they do not have this "Letter", they may not sign your sale agreement;
2. You need to cite the Seller as "the Executor in the Estate Late xxxx, acting in terms of letters of Authority/Executorship No. xxx/xxx". If there is also a surviving spouse or any other parties cited on the title deed as registered co-owner then you need to cite that person as well and they need to also sign the sale agreement;
3. You need to insert into the special conditions that "It is recorded that the Master of the High Court is required to consent to/approve the sale. Should the Master refuse to approve the sale, this Agreement shall lapse and be of no further force or effect" alternatively one could say that "the Agreement is subject to the Master's consent" but we try and avoid using suspensive conditions if possible;
4. Generally the Master is happy for properties to be sold as long as the asset is being sold for it's correct value and all the heirs consent. Please make sure, before you take a mandate or offer, that the heirs are "on board" with the transaction as they will have to sign a consent during the process which gets lodged with the Master when we ask him to endorse our Power of Attorney to Pass Transfer. The heirs will have been appointed in terms of the will or if there is no will, in terms of the laws of intestate succession.
5. One does not need to wait for the deceased estate to be finally administered and wound up before the property can be sold. If the representative/Executor and heirs are in agreement the property can be sold and transferred as soon as the letters of Authority/Executorship is issued.

**If you are approached to sell a property by someone who has just inherited it, please note the following:**

1. Please check that the property has already been transferredinto their name;
2. If it is not, please check with the attorneys handling theadministration of the deceased's estate, when it is going to be transferred into their name. An heir will only be "given" the property once the Liquidation and Distribution Account has been approved by the Master and account has lain open for inspection free of objection for 21 days. We often find heirs get ahead of themselves and the transfer into their name is still months away;
3. A simultaneous transfer from the estate to the heir and from the heir to your buyer is permissible. You would cite the heir as the seller in your agreement– however please make a note in the Agreement to cover the parties for a delay in the Estate transferring the property to the heir. For further assistance on the necessary clause, please feel free to contact us.

If you have any queries please don't hesitate to contact me.

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