

What happens if the purchaser or the seller pass away before the registration of the transfer of the property?

The contract of sale is as a general rule enforceable against the deceased estate of the seller or the purchaser. Should the seller have passed away after signing the agreement, his executor would therefore have to give transfer of the property and be entitled to receive the purchase price on behalf of the estate, if not yet paid. If the purchaser, on the other hand, passes away, the seller would have to give transfer of the property to the deceased estate and be entitled to receive payment of the purchase price from the estate, if not yet paid. Thereafter the property will be transferred by the executor to the heir or heirs entitled to receive the property in terms of the will or the Intestate Law of Succession, where there is no will.

In both cases the transfer process will unfortunately be delayed as an executor would first have to be appointed for the deceased estate before the registration of the transfer of the property can be effected in the Deeds Office. Where the deceased was the purchaser, who obtained a loan, refinancing of the transaction or payment of the purchase price from the funds in the deceased estate might also be necessary, as the bank would probably withdraw the loan because of the death.

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