IN THE HIGH COURT OF SOUTH AFRICA
(EASTERN CAPE DIVISION, MAKHANDA)

NOT REPORTABLE

Case no: 4357/2024

In the matter between:

IRENE VLOK	Applicant
and	
DEREK RYAN PUCHERT N.O. (In his capacity as the executor of the Estate Late Gerrit Jacobus Vlok)	First Respondent
THE MASTER OF THE HIGH COURT, MAKHANDA	Second Respondent

JUDGMENT

Govindjee J

Background

[1] The applicant and Gerrit Jacobus Vlok (the deceased) were married to each other, in accordance with s 7(3)(*a*) of the Divorce Act, 1979,[1] (the Act) in terms of an antenuptial contract by which community of property, community of profit and loss and accrual sharing in any form were excluded. The applicant relies on the Constitutional Court judgment in *EB v ER NO and a Similar Matter*[2] (*EB*) to seek a redistribution of all the assets, or part thereof, in the name of the deceased to her. The application is opposed by the first respondent (the executor).

[2] Based on the reading-in in *EB*, this court is empowered to order that such assets or such part of the assets of the deceased be transferred to the applicant as the court may deem just. This is subject to the following sections of the Act:

'7(4) An order under subsection (3) shall not be granted unless the court is satisfied that it is equitable and just by reason of the fact that the party in whose favour the order is granted, contributed directly or indirectly to the maintenance or increase of the estate of the other party during the subsistence of the marriage, either by the rendering of services, or the saving of expenses which would otherwise have been incurred, or in any other manner.

(5) In the determination of the assets or part of the assets to be transferred as contemplated in subsection (3), the court shall, apart from any direct or indirect

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[1] Act 70 of 1979. S 7(3)(*a*) provides: 'A court granting a decree of divorce in respect of a marriage out of community of property –

(a) entered into before the commencement of the Matrimonial Property Act, 1984, in terms of an antenuptial contract by which community of property, community of profit and loss and accrual sharing in any form are excluded;…

may, subject to the provisions of subsections (4), (5) and (6), on application by one of the parties to that marriage, in the absence of any agreement between them regarding the division of their assets, order that such assets, or such part of the assets, of the other party as the court may deem just, be transferred to the first-mentioned party.'

[2] *EB v ER NO and a Similar Matter* 2024 (2) SA 1 (CC) para 149(4). The Constitutional Court ordered the following reading-in to the Matrimonial Property Act, 1984 (Act 88 of 1984): '36A(1) Where a marriage out of community of property as contemplated in paras *(a), (b)* or *(c)* of ss 7(3) of the Divorce Act, 1979 (Act 70 of 1979), is dissolved by the death of a party to the marriage, a court may, subject *mutatis mutandis* to the provisions of ss 7(4), (5) and (6) of the said Divorce Act, and on application by a surviving party to the marriage or by the executor of the estate of a deceased spouse to the marriage as the case may be (hereinafter referred to as the claimant), and in the absence of agreement between the claimant and the other spouse or the executor of the deceased estate of the other spouse (hereinafter referred to as the respondent), order that such assets, or such part of the assets, of the respondent as the court may deem just, be transferred to the claimant.'

contribution made by the party concerned to the maintenance or increase of the estate of the other party as contemplated in subsection (4), also take into account –

(a) the existing means and obligations of the parties…;

(b) any donation made by one party to the other during the subsistence of the marriage, or which is owing and enforceable in terms of the antenuptial contract concerned;…

(d) any other factor which should in the opinion of the court be taken into account.

(6) A court granting an order under subsection (3) may, on application by the party against whom the order is granted, order that satisfaction of the order be deferred on such conditions, including conditions relating to the furnishing of security, the payment of interest, the payment of instalments, and the delivery or transfer of specified assets, as the court may deem just.'

[3] The effect is that before a court can order in terms of subsection 7(3) of the Act, it must be established that (a) the party seeking such an order has made a contribution; (b) that such contribution has increased or maintained the other party's estate; and (c) that it would be just and equitable to make such an order because of (a) and (b).[3] Once the factual requirements of subsections (3) and (4) are satisfied, the determination of whether a redistribution order is to be made at all is entrusted by the legislature to the wholly unfettered discretionary judgment of the court as to whether it would be equitable and just to do so.[4] The manner in which the court is to arrive at what is just and equitable is not limited to what has been contributed.[5]

[4] The executor is cited only in his capacity as the executor of the deceased's estate. He is also the appointed trustee of a testamentary trust created by the deceased. In terms of the deceased's Last Will and Testament, the residue of the estate was bequeathed to the trustees of a trust created in the Will for the benefit of child welfare objectives as managed by the Gereformeerde Kerk, Bethlehem (the trust). The executor contends that, absent joinder of a trustee, any order granted would be unenforceable against the trust. The executor also argues that the quantification of any payment is subject to a foreseeable dispute of fact, to be determined in favour of

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[3] *Katz v Katz* 1989 (3) SA 1 (A) at 15C–D (*Katz*).
[4] *Beaumont v Beaumont* 1987 (1) SA 967 (A) (*Beaumont*) at 988J–989A.
[5] *Katz* above n3 at 15C–D.

the executor's version in accordance with the *Plascon-Evans* test, and based on the applicant's current maintenance needs and ability of the trust to make payment.

Non-joinder

[5] The executor delivered a notice in terms of Uniform Rule 6(5)(*d*)(iii) in relation to non-joinder (the notice). On 17 December 2024, Rugunanan J delivered judgment and dismissed the question of law raised, with costs. The executor contended that at the time Rugunanan J heard the application, the immovable property vested in the estate, of which he had full control. As such, the citation was adequate in respect of the assets in issue in that application. It was argued that events had moved on because the fixed properties had been sold so that the proceeds inclusive of the estate residue would ultimately become available for distribution to the trust. It was submitted that no judgment pertaining to the estate could be *res judicata* in respect of the trust, and that the applicant had failed to cite the correct party to obtain relief.

[6] The expression 'res judicata' has been held to mean 'that the matter has already been decided'. The gist of the plea is that the matter or question raised had been finally adjudicated upon in proceedings between the parties and that it therefore could not be raised again.[6] The requirements of *res judicata* are the following:

a) There must be a previous judgment by a competent court;
b) Between the same parties;
c) Based on the same cause of action, and
d) With respect to the same subject-matter or thing.

[7] It is apparent from the judgment of Rugunanan J that he was faced with two applications during December 2024. Firstly, the same application for a transfer of 'all of the assets' in the name of the deceased to the applicant, alternatively a transfer of a part of the estate as the court deemed just. Secondly, the applicant claimed urgent interdictory relief restraining the executor from selling, leasing, mortgaging and / or hypothecating 'any of the assets' in the deceased's estate pending the final adjudication of the redistribution application. The main application was set down

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[6] *Prinsloo NO and Others v Goldex 15 (Pty) Ltd and Another* 2014 (5) SA 297 (SCA).

before the learned judge as an uncontested opposed matter and the urgent application featured concurrently.

[8] Significantly, it was in reaction to *both* applications that the executor delivered the notice, raising as a question of law his non-joinder as trustee of the trust in the following terms:

'The first respondent is the appointed trustee of the Gerrit Jacobus Vlok Testamentary Trust… The first respondent as trustee of the Gerrit Jacobus Vlok Testamentary Trust is not a cited party before the above honourable court in his capacity as a trustee of the trust. Consequently, the first respondent submits a point *in limine* that the applicant's pending proceedings are defective for lack of joinder of the first respondent as a trustee of the trust.'

[9] Rugunanan J noted that the deceased's Will indicated that his entire estate comprised a trust created for the benefit of child welfare objectives as managed by the Gereformeerde Kerk, Bethlehem, subject to certain conditions and exceptions. The argument before the learned judge was described as follows:

'Since the Will speaks of a trust, of which he is the trustee nominate, the respondent contends that his non-joinder in that capacity amounts to a failure by the applicant to recognise the trust as an interested person…It appears that the respondent's contention stems from the form or formulation of the clause identified in the Will. It is to be borne in mind that the undeveloped properties are immersed in the residue of the deceased's estate in regard to which the respondent – as executor – has endeavoured to obtain a calculation quantifying in monetary terms the deceased's estate.'

[10] The court considered and dismissed the question of law raised in the notice with costs and postponed the main application *sine die*. The two-fold reasons provided for the dismissal of the point *in limine* included the finding that the substance of the enquiry involved a financial interest that did not necessitate upholding the contention advanced. In addition, the court noted that the mindset of the executor evinced no uncertainty about his appointment and status so that his failure to intervene in that capacity could equate to a waiver of the right to be joined.

[11] Considering this background, it appears to me as though each of the requirements for res judicata has been satisfied so that the point must be dismissed. That the executor may have advanced somewhat in the administration of the

deceased estate cannot alter the reality that the non-joinder point *in limine* pertaining to the present proceedings was considered and dismissed on the merits by Rugunanan J. That decision is also not the subject of any application for leave to appeal.

[12] As to costs, in my view it was unfortunate at best, and mala fide at worst, for the executor, himself an attorney, to take the point again, and to persist with the point, notwithstanding the judgment of Rugunanan J. That this persistence was framed with conviction, based on a selective reading of the judgment of Rugunanan J and coupled with a threat only made matters worse. There is no reason why the estate should bear the costs of this dimension of the proceedings. The conduct was unreasonable and negligent to the extent that I consider a costs order against the executor *de bonis propriis*, on a punitive scale, with costs of counsel on scale C, to be warranted in respect of the point *in limine*.[7]

The accepted facts

[13] Motion proceedings for final relief are appropriate only where it is not foreseeable that there will be material disputes of fact in the affidavits. The position has been described as follows in *Plascon-Evans Paints Ltd v Van Riebeeck Paints (Pty) Ltd*:[8]

'… where in proceedings on notice of motion disputes of fact have arisen on the affidavits, a final order may be granted if those facts averred in the applicant's affidavits which have been admitted by the respondent, together with the facts alleged by the respondent, justify such an order. The power of the Court to give such final relief on the papers before it is, however, not confined to such a situation. In certain instances the denial by respondent of a fact alleged by the applicant may not be such as to raise a real, genuine or *bona fide* dispute of fact. If in such a case the respondent has not availed himself of his right to apply for the deponents concerned to be called for cross examination … and the court is satisfied as to the inherent credibility of the applicant's factual averment, it may proceed on the basis of the correctness thereof and include this fact among those upon which it determines whether the applicant is entitled to the final relief which he seeks … Moreover, there may be exceptions to this general rule, as, for

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[7] *See Stapelberg v Schlebusch* 1968 (3) SA 596 (O) at 605.
[8] *Plascon-Evans Paints Ltd v Van Riebeeck Paints (Pty) Ltd* [1984] 2 All SA 366 (A) 367–368; 1984 (3) SA 623 (A) 634E–635D.

example, where the allegations or denials of the respondent are so far-fetched or clearly untenable that the Court is justified in rejecting them on the papers…' (references omitted).

[14] The executor was unable to respond to most of the applicant's averments pertaining to the respective financial contributions during the marriage. It must also be noted that the applicant's description of that history is supported by each of the three children born of the marriage, who make the following identical averments:

a) The deceased informed the children that at the commencement of the marriage he did not have any assets or savings of his own;
b) The applicant had provided him with the capital / money / funds to make investments;
c) The applicant was always working, either to earn an income to pay for our household expenses, or to take care of the children and deceased, or to assist the deceased, also with farm work;
d) The applicant managed the household and the upbringing of the three children;
e) Had it not been for the applicant's savings, and the fixed income that she frequently earned, the family would not have been able to survive.

[15] Some remarks are necessary regarding papers contained in the application. Firstly, the executor's submissions were premised on the applicant's claim being one for maintenance, rather than redistribution. This was misdirected. Secondly, in many respects the executor was simply not able to comment in response to the facts presented by the applicant, for example in respect of the initial savings amount, reflected below, and his opinion on the probabilities of the applicant's averments offered little of value. This supports the conclusion that it was not foreseeable that there would be material disputes of fact on the affidavits when the application was launched. Thirdly, upon a careful perusal of the affidavits, this is not a matter in which the court is unable to consider the application, based on the executor's version and the founding papers on their own, applying *Plascon-Evans*, in circumstances where the court is either satisfied as to the inherent credibility of the applicant's factual averment or inclined to assess the executor's denial of an averment as clearly untenable. Fourthly, the executor's reliance on an actuarial report, without an accompanying confirmatory affidavit, to substantiate an alleged dispute of fact was

misplaced. The report lacked evidential value and was inadmissible.[9] In any event, the certificate of values presented again pertained to a 'maintenance claim' in respect of the applicant, as opposed to one seeking to guide the court in the exercise of its discretion as to an appropriate redistribution.

[16] The applicant and deceased married out of community of property, with the exclusion of the accrual system on 5 July 1980. A registered pharmacist, the applicant established a pharmacy in Springs, Ekurhuleni, Gauteng and earned significantly more income than the deceased, whose income was periodical and fluctuating. At the beginning of the marriage, the couple utilised the applicant's consistent income and savings, courtesy of the pharmacy, to provide for their family, including their children, to pay their day-to-day living expenses and fund the deceased's business ideas. The pharmacy was sold for R155 000 in 1984 and that amount was paid to the deceased to control. The couple then used the applicant's accumulated savings to pay their monthly living expenses, given that the applicant's monthly income had ceased and the deceased remained unemployed. As the deceased preferred to utilise the savings for investment purposes, the applicant had to recommence work after 10 months of being a full-time mother.

[17] The couple purchased their first family home with the applicant's savings, which included the money obtained from the sale of the pharmacy. The deceased invested some of the applicant's savings and profits from the sale of the pharmacy into a Poly container business. When that was sold, the profit obtained was used to build five townhouses in a development, two of which were retained as a further investment. It was the applicant's initial savings, the money earned through income received at the pharmacy, coupled with her later employment and the sale of the pharmacy which provided the platform for the couple's future investments in property, farming and other ventures, which funded the couple's lives for the next four decades.

[18] The applicant's monthly income as a pharmacist was used for the couple's day-to-day living expenses, the rates and taxes of their properties and their school fees until the applicant resigned to assist the deceased in a farming venture during 1994.

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[9] *Aldcorn v Road Accident Fund* 2022 JDR 1314 (GP) para 6.

The applicant then assisted the deceased on the farm, managed the household and cared for the children. When the deceased changed from citrus to cattle farming, the couple purchased a house in town and the applicant recommenced employment to obtain income for the family. The deceased was unemployed while he searched for a cattle farm and the family relied on the applicant's monthly income and rental income. The applicant retained her income when the deceased secured a farm in 2000, while caring for their youngest child and managing the household. She started studying during 2002 to further her career.

[19] The applicant was employed at Voortrekker Hospital for a decade after 1997 and earned approximately R5 million during this time. This income was absorbed into the couple's day-to-day living expenses, and that of the children while they remained in the household, and propped up the farming operations. When the applicant resigned in 2007, her lumpsum pension fund payout was absorbed into the couple's savings accounts and monthly pension fund payouts were used for household and day-to-day living expenses. The applicant assisted the deceased with farming operations on four different farms for the next four years before again returning to pharmaceutical work, during which time her income was again used to cover household and day-to-day living expenses.

[20] The deceased was diagnosed with melanoma cancer during 2012. The applicant took care of him for the next 11 years, nursing him and transporting him for medical appointments and therapy. The deceased was always in charge of the applicant's finances and enjoyed full access and control over her money, as if it was his own. Approximately R2 million of her money was transferred by him into his own accounts during 2018. Between 2018 and 2023, it is accepted that the applicant paid amounts far exceeding that paid by the deceased in relation to the parties' expenses. In 2023, the deceased had the applicant transfer two properties in her name, valued at R800 000, without paying money to the applicant. The applicant avers that all the money in the deceased's accounts and properties registered in the deceased's name originated from the applicant's income she received through her pharmacy, the proceeds made through the sale of the pharmacy, through initial investments with her funds and because of the applicant paying all the deceased's living expenses for 44 years.

[21] The rental income generated from the two townhouse properties was invested into savings and at times used to pay for living expenses. The applicant admits that the deceased's investments in respect of the sale of the Poly container business and the townhouse development yielded substantial profit, and that the sale of assets contributed to the purchase of the home in Potgietersrus. While the source of such investments may have been the applicant's capital, profit was yielded through shrewd investment decisions by the deceased, who was a meticulous individual and responsible for the management of the applicant's funds, assets, investments, budgets, income and expenditure. Farms that had been purchased were also sold for a profit more than R2 million. The applicant attributed this to mere luck, also suggesting that any profit compensated for the losses sustained during the farms' operation. The applicant also ascribed the increase in the value of the townhouse property to 'extraordinary growth in the property market at the time'. On the papers, it must be accepted that such investments and returns on investment stand to the credit of the deceased and cannot be ignored in the final analysis. It must also be noted that the profit yielded from the sale of the farms was placed in a money market account in the name of the deceased, while the applicant continued to pay for the couple's expenses.

[22] Given the way the couple operated, and despite working together in respect of many endeavours, it is unsurprising that the deceased had significantly more money in his estate than the applicant at the time of his passing: he was able to use money from the applicant's accounts for himself and pay the couple's joint expenses from her funds while saving money in his accounts. In addition, as indicated above, two properties belonging to the applicant were transferred to the deceased during 2023 without any money being paid to the applicant. The deceased, who passed away by suicide, changed his last will and testament so that the applicant, instead of inheriting his entire estate, only inherited a Toyota bakkie, bequeathing the remainder to the trust for the benefit of the church.

Redistribution

[23] The court in *RP v PP*[10] drew on the recognised authorities in restating the applicable principles for redistribution as follows:

(a) The court must be satisfied on the facts that the claimant spouse has contributed to the maintenance or increase of the estate of the other during the subsistence of the marriage, and by reason of such contribution it would be just and equitable to make such redistribution order.

(b) The contribution of a spouse may be direct or indirect and may consist in services, including services rendered at home and in a business venture, saving of expenses through such services, which obviates the employment of someone to render the service, or may be a financial contribution.

(c) The court ought to take an overall view and make a just order in terms of subsection (3), bearing in mind the existing means, obligations and needs of the parties and all other relevant factors;

(d) The granting of redistribution is discretionary, and the courts are vested with a very wide discretion to ensure that a just order is made, as circumstances in each claim for redistribution may be widely divergent. Further, s 7(5)(*d*) authorises consideration of 'any other factor which should in the opinion of the court be taken into account'.

(e) The courts should avoid 'guidelines' or 'starting points' when determining redistribution. The English approach that the parties should share their joint net assets equally, absent any contrary indication, has been rejected by our courts. The known and unequal contributions of the parties are relevant and cannot be disregarded.

(f) No limits are placed on the form and mechanics of the redistribution, nor is a meticulous mathematical calculation required, nor should there be an attempt to quantify the weight to be accorded to every relevant factor.

(g) Misconduct of the parties may be taken into account in determining the equities of a s 7(3) redistribution if the conduct is such that it would be inequitable to disregard it.

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[10] *RP v PP* 2016 (4) SA 226 (KZP) (*RP*) para 17 (references omitted).

[24] It is a prerequisite to a successful claim under s 7(4) that, on a balance of probabilities, the conduct relied upon by a claimant as a contribution in fact caused the alleged maintenance or increase of the other spouse's estate.[11] Subsection (5) prescribes the considerations which the court must consider in the determination of the assets or part of the assets to be transferred in terms of a redistribution order. First and foremost is the contribution by the one spouse to the estate of the other, by which is obviously meant the nature and extent of the contribution. Thereafter, the existing means and obligations of the parties must be considered, followed by any donation made or 'any other factor which should in the opinion of the court be taken into account'.[12] Courts are not entitled, as a matter of course, to merely divide the joint net assets of the spouses in a marriage equally, regardless of their respective known and unequal contributions.[13] In relation to the consideration of a spouse's 'services' as a contribution to the increase or maintenance of the other spouse's estate within the meaning of subsections (3) and (4) of section 7 of the Act, evidence which enables the court to put a money value on these services or what it would cost to employ a person to perform them if the spouse had not performed them is not a prerequisite to a finding that such a spouse has made a contribution within the meaning of ss (3) and (4). To hold that such evidence is necessary would be to confuse the jurisdictional facts necessary for an order in terms of s 7(3) and the way the court is to exercise that power once it is established.[14]

[25] There can be no dispute that the applicant made a 'contribution' to the deceased during the subsistence of the marriage. Indeed, the executor concedes as much. The effect thereof was to directly and indirectly increase or maintain the deceased's estate. This occurred through the rendering of services in the household, saving of expenses which would otherwise have been incurred, through the capital and income made available to the deceased for savings and investment and by virtue of the transfer of the applicant's properties to the deceased during 2023. As a result, and considering the accepted facts, it is apparent that it would be just and equitable to make an order in terms of s 7(3) of the Act.

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[11] *RP* n10 para 22.
[12] *Beaumont* above n4.
[13] *Kritzinger v Kritzinger* 1989 (1) SA 67 (A) at 77F–G.
[14] *Katz* above n3 at 2D–E.

[26] It is necessary to consider the factors listed in s 7(5), including the various forms of contribution made by the applicant, to determine the appropriate extent of the redistribution to be ordered. As indicated, this is a matter within the unfettered discretion of the court, including consideration of any factor which the court considers relevant upon judicial assessment.[15] It is unnecessary to determine with precise mathematical accuracy the totality of the contributions made by the applicant to the deceased's estate, or indeed the exact present value of either the applicant or deceased's estate.

[27] As in *Bezuidenhout v Bezuidenhout*,[16] both the applicant and deceased contributed in different ways to their joint financial situation, and with vastly different levels of control. The deceased's role requires greater appreciation than what he is credited for in the applicant's papers. Profits gained through commercial transactions at his instance cannot be underplayed with reference to good fortune. In fact, the deceased demonstrated a penchant for harnessing the couple's savings for purposes of investment, and the evidence reveals that he generally managed the couple's financial affairs successfully, albeit that this was grounded on income earned by the applicant. That being the case, it would certainly be unjust to order a transfer of all the deceased's assets to the applicant.

[28] That said, it is accepted on the facts that the applicant's direct and indirect contributions and efforts, over the entire course of the marriage, were more influential than that of the deceased in the increase and maintenance of the deceased's estate. This included the applicant's role in earning a regular monthly income for long periods of time, providing a reliable financial platform for the deceased's investment decisions, paying joint expenses and saving expenses for the deceased in various ways during the marriage. The court also considers the fact that the applicant was the primary caregiver of the children born of the marriage and took responsibility for the household. In addition, she played the role of caregiver to the deceased during his prolonged

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[15] See *Bezuidenhout v Bezuidenhout* 2005 (2) SA 187 (SCA) (*Bezuidenhout*) paras 19–23, 26.
[16] *Bezuidenhout* above n15 para 33.

period of illness. The greater needs of the applicant, in comparison to the estate's obligations, have also been factored.[17] All these considerations must be afforded due weight, without the need to attempt to quantify the weight to be accorded to every relevant factor.[18] In my view the papers do not make out a case for any misconduct on the part of the deceased to factor into the assessment.[19] A globular approach to redistribution in the matter is warranted in the circumstances of the matter.[20] On a holistic consideration of the various pertinent factors described above, a redistribution order of 65% of the deceased estate is considered appropriate.

Costs and conduct

[29] Leaving aside the issue of the *in limine* plea of non-joinder, discussed above, it is appropriate for the estate to be ordered to pay the costs of the application on an attorney and client scale. While the opposition may have been justified given the applicant's claim for transfer of all the estate assets, the basis and extent of the opposition was misdirected in various respects, as explained above.

[30] It is also necessary to comment on the conduct of the executor in two respects. Firstly, it is lamentable that the executor failed to provide further details in respect of the value of assets under his control, albeit subject to confirmation by the second respondent, notwithstanding the applicant's invitation to disclose the relevant details. The court was thereby deprived of information that may have been material to the outcome of these proceedings. As held in *RP*, the onus was on the parties to place all factors of relevance to the adjudication before the court.[21] That principle also puts paid to the suggestion that the applicant had placed unnecessary, voluminous financial details before court. Secondly, the executor failed to advise the applicant to seek independent legal advice in financial dealings with his client, the deceased, in circumstances where this may have been appropriate. This pertains specifically to the way properties belonging to the applicant were transferred to the deceased without any payment, and the signature of loan documents following a 'long intense meeting'

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[17] *Katz* above n3 at 10I–11A.
[18] *Bezuidenhout* above n15 para 29; *RP* above n10 para 17.7.
[19] Cf *RP* above n10 para 41.
[20] See *RP* above n10 para 65.
[21] *RP* above n10 para 60.

and ‘robust discussions’ in the executor’s presence. The following remarks are apposite, although in the present instance it was the legal practitioner’s client’s wife that bore the brunt of the conduct:[22]

‘…the judgment should also serve as a salutary reminder to legal practitioners of the possible dire consequences for their clients in cases where they choose to attempt to represent both parties in proceedings where money or rights are involved. While these joint consultations may commence in a spirit of goodwill, or in an attempt to expedite matters and save costs, once the shoe pinches, it is inevitable that the legal practitioner, and by extension the profession, lands in the crosshairs.’

Order

[31] The following order is issued:

1. The first respondent shall transfer sixty five percent of the assets of the late Gerrit Jacobus Vlok (identity number 500926 5067 088), as included in the Estate Late Gerrit Jacobus Vlok (estate number 001658/2024), to the applicant.
2. The first respondent shall take the necessary steps to transfer the assets referred to in paragraph 1 to the applicant during the winding-up of the estate.
3. The first respondent shall pay the costs of the *in limine* plea of non-joinder on an attorney and client scale, *de bonis propriis*, with costs of counsel on Scale C.
4. The first respondent shall pay the costs of the application on an attorney and client scale, with costs of counsel on Scale C.

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A GOVINDJEE
JUDGE OF THE HIGH COURT

[22] *J.A.N v N.C.N* [2022] ZAECMKHC 14 para 45.

Heard: 31 July 2025

Delivered: 12 August 2025

Appearances:

For the Applicant:	Adv S Nel
Instructed by:	De Bruyn & Morkel Attorneys Menlopark c/o Netteltons Makhanda
For the First Respondent:	Adv S Cole SC
Instructed by:	Whitesides Attorneys Makhanda