

Three Branches of LoS

Testate Succession When deceased has left a will

Intestate Succession Applies in absence of a will

Succession by contract Antenuptual contract and Donations only accepted contracts.

Terminology

Legatee: Beneficiary who receives specific a asset/s.

Legacy The particular asset/s a legatee receives.

Heir Beneficiary who receives residue of estate once legacies are distributed. = successor/beneficiary

Inheritance Benefit that goes to heir

Freedom of Testation Deceased can divide asset however they please. This is limited.

Commorientes People who died simultaneously.

The Administration of a Deceased Estates

Regulated by **Administration of Estates Act 66 of 1965**. Two Important Functionaries:

The Master of the High Court **The executor**

Supervises administration process Party who actually administers estate

Has an advisory function to the executor. Usually nominated in will (**executor testamentary**) - If not, **executor dativo**

Must be issued letter of executorship

Functions of the Executor

1. Complete and lodge Estate documents (i.e death notice, will etc.) with the Master
2. Advertised to the deceased creditors to submit claims to the estate & pay claims with cash/equity in estate.
3. Prepare the L&D account (made up of above information). Lies open for 21 days at Masters and district's magistrate office. Finalised if no objection.

Succession and Ownership

Succession is not a mode of acquisition of ownership.

Greenburg v Estate Greenburg: Instead, the successor acquires a *personal right to claim from the executor at some future date delivery of the legacy*.

This future date is once the I&D account is confirmed is the transfer of ownership enforceable.

Dies Venit: The moment when a successor can claim the transfer of an asset from executor.

Requirements for succession

1. The estate owner must have died/must be legally presumed dead.
2. Successor must be born at the moment of **dies credit** OR must have been conceived and born alive.
3. Successor must have survived the deceased.
4. Beneficiary must be competent to receive benefit.



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