Court kicks surviving life partner out of her home

You share a home. You share a life. You never married. Then one of you dies without a will — and the survivor is told the house must be sold and that she must move out.

That is what happened to Maree Poole. On 9 April 2026 the Western Cape High Court ordered her and her two adult daughters to vacate the Retreat home they had lived in for years (*Jansen van Rensburg NO v Poole and Others* (21515/2024) [2026] ZAWCHC 162).

What happened in the Poole case

Mr David Louw died in November 2020 without a will. His estate had too little cash to pay its debts, so the house — registered in his name — had to be sold. The executor applied to evict Ms Poole under the Prevention of Illegal Eviction from and Unlawful Occupation of Land Act 19 of 1998 ("PIE").

Ms Poole fought back on two fronts:

- She asked to be recognised as David's surviving spouse under sections 1(1) and 1(1A) of the Intestate Succession Act 81 of 1987, on the basis that they had been permanent life partners.
- She said the 2013 sale of the house to David (R560 000, registered on 29 August 2013) had been a simulated transaction — a paper sale to raise a loan — and that she remained the true owner.

The court heard sixteen witnesses over four days and found against her on both points.

No permanent life partnership.

David had carried on living with his former wife at Northpine after their 2007 divorce, sharing her bedroom. His clothes, tools, post, bank statements, bond statements, medical accounts and pension fund correspondence all went to that address. Under cross-examination, Ms Poole conceded that his conduct —

including sending “gangsters” to her home — was “not normal for a life partnership”.

No simulation.

There was a genuine sale, a genuine price and proper conveyancing. Her claim to have the property re-transferred had in any event prescribed three years after she says the loan was repaid (Prescription Act 68 of 1969, sections 10, 11 and 12).

The court granted the eviction but softened it: the family must leave by 31 October 2026, and only from 2 November 2026 may the sheriff act. Each party pays its own costs, because the judge found their predicament had been caused by David’s “consistent dishonesty”.

One point is easily missed.

Even if Ms Poole had won on the spouse issue, the house would still have been sold — she would merely have shared in the proceeds as an heir (paragraph 11 of the judgment). Recognition as a life partner is not a right to keep the roof over your head.

Three months later, the opposite outcome

In a determination reported at the end of July 2026, the Pension Funds Adjudicator upheld a fund’s decision to award 45% of a death benefit of R8 330 764.70 to a deceased member’s life partner, “M” — even though he had nominated his sister to receive 100% back in 2005, and even though the couple had kept separate homes for much of the relationship.

Adjudicator Lebogang Mogashoa held that a beneficiary nomination is not binding on trustees (Pension Funds Act 24 of 1956, section 37C), and that continuous cohabitation is not decisive. What matters is a permanent conjugal relationship, together with conduct showing an intention to share a life.

Two rulings, two directions — but one lesson: our law now recognises life partners, and then makes you prove it.

Ms Poole spent four days in the witness box and lost her home. In our next newsletter we set out exactly what a life partner in the right category can claim —

and the single document that makes the whole enquiry unnecessary.

Free wills during Wills Week

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You can click this link and fill in the relevant form online so we can draw up a will for you. It will not take you longer than five minutes to complete the form.

After that, we will provide you with the draft document and set up a meeting to discuss it and arrange for signing.

The service is free of charge.

Volker Krüger