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EFFECTS OF THE OFFEROR'S DEATH ON CONTRACT FORMATION AND COMPETING CLAIMS UNDER RWANDAN LAW

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ABSTRACT

This article examines the impact of an offeror's death on the formation and enforceability of contracts under Rwandan law, with particular reference to Law N° 45/2011 Governing Contracts and Law N° 71/2024 Governing Persons and Family. It analyses the validity of oral and instantaneous acceptances, the (in)applicability of the postal acceptance rule when the offeror dies before receipt, the consequences of breaching exclusive agency agreements, and the duties of heirs towards contractual creditors of the deceased. The study demonstrates that a contract validly concluded before death binds the estate and enjoys priority over inheritance rights. Specific performance remains available for unique goods, while agents and disappointed offerees are generally limited to monetary remedies. The analysis underscores the resilience of consensual obligations against the contingency of death in Rwandan civil law.

Keywords: contract formation, death of offeror, postal rule, instantaneous communication, exclusive agency, succession, specific performance, Rwandan law.

I. INTRODUCTION

Contractual obligations occupy a central place in Rwandan private law. Law N° 45/2011 of 25/11/2011 Governing Contracts ('Law on Contracts') requires consent, capacity, a lawful object, and lawful cause for validity.² Consent is ordinarily expressed through offer and acceptance.³ The sudden

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² Law N° 45/2011 of 25/11/2011 Governing Contracts, Official Gazette n° 04bis of 23/01/2012, arts 4–7 (general provisions on validity).

³ Ibid art 8 (mutual consent via offer and acceptance)

death of one party before performance raises critical questions: When is a contract conclusively formed? Does death terminate outstanding offers? Which remedies survive against the estate? This article addresses these issues systematically.

II. FORMATION BY INSTANTANEOUS COMMUNICATION AND EFFECT OF DEATH

Rwandan law accepts oral contracts unless a particular form is prescribed.⁴ Acceptance communicated by instantaneous means (telephone, email, messaging applications) takes effect when received and understood by the offeror.⁵ Once the offeror manifests unequivocal assent that is received, the contract is perfected; subsequent death does not affect its validity.⁶ The estate, represented by the executor or heirs, remains bound to perform, and creditors under such contracts rank ahead of legatees.⁷

III. THE POSTAL ACCEPTANCE RULE AND DEATH OF THE OFFEROR

The postal acceptance rule, inherited from common-law jurisdictions, provides that acceptance by post becomes effective upon posting rather than receipt.⁸ Rwandan courts have neither expressly adopted nor rejected the rule. Even if applied, however, the death of the offeror before the acceptance reaches the offeree (or their representatives) terminates the power of acceptance where the offeree is unaware of the death.⁹ More fundamentally, once a prior binding contract exists over the same object, any subsequent attempt to contract lacks a lawful object and is void.¹⁰ Consequently, a posted

⁴ Law N° 45/2011 (n 1) art 30 (no form required unless specified; cf employment contracts under Law N° 66/2018 of 30/08/2018 Regulating Labour, art 11, limiting oral contracts to < 90 days).

⁵ *Entores Ltd v Miles Far East Corporation* [1955] 2 QB 327 (CA) (instantaneous acceptance effective on receipt); adopted analogously in Rwandan practice per Treitel GH, *The Law of Contract* (15th edn, Sweet & Maxwell 2020) 8-001–8-005.

⁶ Law N° 45/2011 (n 1) art 64 (contracts binding once formed; death does not retroactively invalidate); cf general principle in *Mugisha F*, ‘The Contractual Remedy of Restitution and Specific Performance under Rwanda’s Law’ (LinkedIn, 23 March 2024) (death post-formation preserves obligations).

⁷ *Mana Foods Rwanda v Kibanguka*, HCC Judgment RCOM 0171/11/HCC, 31 October 2011 (estate bound by pre-death contracts); *Twagirayezu v Banque Populaire du Rwanda*, Supreme Court RS/REV/INJUST/CIV 0004/15/CS, 11 September 2015 (creditor priority over heirs).

⁸ *Adams v Lindsell* (1818) 1 B & Ald 681 (postal rule origin); not expressly in Law N° 45/2011 (n 1), but cf art 17 (electronic communication principles).

⁹ *Ibid*; cf Treitel (n 4) 2-050 (death revokes uncommunicated offers); no direct Rwandan authority, but aligned with art 18 (offer expiry on death/incapacity).

¹⁰ Law N° 45/2011 (n 1) art 4 (lawful object required; prior contract voids subsequent).

acceptance arriving after the offeror's death will rarely create an enforceable obligation when a previous valid contract already exists.

IV. EXCLUSIVE AGENCY AGREEMENTS AND REMEDIES FOR BREACH

Appointment of an “exclusive agent” restricts the principal's right to appoint competing agents or (depending on wording) to sell directly without incurring liability.¹¹¹² Revocation of a mandate is always permissible under Rwandan law, but abusive or untimely revocation engages the principal's liability in damages.¹³ Direct sale in breach of an exclusive agency clause entitles the agent to compensatory damages equivalent to the lost commission, plus reimbursement of expenses reasonably incurred in performance of the mandate (e.g., advertising costs).¹⁴ Death of the principal terminates the agent's authority but does not extinguish accrued rights to damages.¹⁵

V. DUTIES OF HEIRS AND PRIORITY OF CONTRACTUAL CREDITORS

Law N° 71/2024 Governing Persons and Family establishes that an heir who accepts succession inherits both assets and liabilities of the deceased.¹⁶ However, liability is limited to the value of inherited property.¹⁷ Contractual creditors whose claims arose before death enjoy priority over the heir's personal enjoyment of the estate. Assets must first be applied to satisfy enforceable obligations, including those arising from valid sales of movables or immovable property.

¹¹ Generis Global Legal Services, Understanding Exclusive Agency Relationships: Legal Requirements Explained, Nov 1, 2024. <Understanding Exclusive Agency Relationships: Legal Requirements Explained> accessed 20 November 2025. See also, Murray M, Real Estate Agency Law (Juta Law, 2018) (exclusive mandates under Roman-Dutch influence, applicable via civil law traditions).

¹³ Law N° 45/2011 (n 1) art 93 (mandate revocable but liable for abuse); cf Taarifa Rwanda, ‘Parliament Approves Draft Law on Obligations and Legal Responsibilities’ (1 March 2025) accessed 20 November 2025 (forthcoming obligations law). <<https://taarifa.rw/index.php/2025/03/01/parliament-approves-draft-law-on-obligations-and-legal-responsibilities>> accessed 20 November 2025.

¹⁴ Ibid art 138 (damages for breach, including lost profits/expenses).

¹⁵ Mugisha (n 5) (accrued rights survive death); Law N° 45/2011 (n 1) art 64.

¹⁶ Law N° 71/2024 of 26/06/2024 Governing Persons and Family, Official Gazette Special of 30/07/2024, art 390(5) (acceptance includes liabilities).

¹⁷ Ibid art 392(1) (limited to estate value; cf prior Law N° 27/2016 of 08/07/2016 Governing Matrimonial Regimes, Donations and Successions, art 392).

VI. AVAILABLE REMEDIES

1. Specific Performance – Available under Article 64 of the Law on Contracts when damages would be inadequate, particularly for unique or irreplaceable goods.¹⁸ Courts regularly grant transfer of title against estates when a valid contract existed at the date of death.
2. Monetary Damages – Disappointed offerees and agents whose rights do not extend to the asset itself are restricted to expectation or reliance damages.¹⁹
3. Restitution and Reimbursement – Agents may recover expenses incurred in good-faith performance prior to revocation or death.²⁰

VII. CONCLUSION

Rwandan law prioritises certainty and protection of concluded agreements. A contract perfected by valid offer and acceptance – whether oral or through instantaneous means – survives the death of a party and binds the estate. The postal rule, even if recognised, yields to the existence of a prior binding contract and to the principle that death terminates outstanding offers. Exclusive agents enjoy damages rather than proprietary claims, while heirs bear only limited liability confined to inherited assets. These principles collectively ensure that death does not serve as an escape from obligations freely undertaken.

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¹⁸ Law N° 45/2011 (n 1) art 64 (binding performance in good faith; specific relief for inadequacy of damages).

¹⁹ Ibid arts 50, 52 (misrepresentation/reliance damages); Mugisha (n 5).

²⁰ Ibid art 137 (reimbursement for mandate expenses); Murray (n 10) ch 7.

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