



ConCourt rules new homeowners not liable for historical debt

29 August 2017 11:00 AM

JOHANNESBURG - The Constitutional Court has ruled that new home owners are not liable for historical debt incurred by previous owners.

Several municipalities including Tshwane, eThekweni and Ekurhuleni had argued that it was lawful for a municipality to attach and sell a recently purchased property in order to pay debt owed to them.

The case was brought by several property owners who opposed this practice.

Historically a property was not allowed to be transferred to a new buyer until a municipal certificate was issued, clearing any debt spanning a two-year period.

However, debts that surpassed the cut off became the liability of the new owner.

At the heart of this appeal was the interpretation of the Municipal Systems Act, which municipalities used to refuse to issue clearance certificates until all debts had been paid.

Justice Edwin Cameron handed down Friday's unanimous judgment.

Cameron says the provision is capable of being interpreted so that the charge does not survive transfer.

MUNICIPALITIES ORDERED TO PAY COSTS OF APPLICATION

The court has also ordered municipalities to pay the costs of the application brought by homeowners.

In a unanimous judgment, Justice Edwin Cameron says the Municipal Systems Act can be interpreted so that the charge does not survive the transfer.

“It is declared that upon transfer of a property, a new owner is not liable for debts arising before transfer from the charge upon the property under Section 113. The appellants and the appeals and the minister are to pay the applicant costs, including the costs of two counsel.”

Written by: Gia Nicolaides

<http://www.702.co.za/articles/270316/concourt-rules-new-homeowners-not-liable-for-historical-debt>