

ConCourt rules in favour of new home-owners saddled with municipal debt

BY PHATHU LUVHENGO August 29, 2017



The Constitutional Court has ruled that new home-owners are not responsible for historical municipal debt incurred by previous property-owners

The Constitutional Court has ruled on Tuesday that new property owners are not liable for municipal debt incurred by the previous owner.

Moneyweb reports the ruling gives relief to home and business owners, who have been saddled with years of historical municipal debts and have been denied municipal services until the debt had been paid.

The court has found that upon transfer of a property, a new owner is not liable for an old municipal debt. In a unanimous judgment by Justice Edwin Cameron, the court upheld a ruling by the North Gauteng High Court in November last year.

This case came before the court when the City of Tshwane and Ekurhuleni refused to contract the supply of municipal services to properties which had outstanding debt.

Although the properties had exchanged owners, municipalities demanded that new owners pay the money owed by the previous title owners, arguing that the debt charge carried over upon transfer. The High Court previously ruled that it was unconstitutional and amounted to an arbitrary deprivation of property.

An application at the Constitutional Court was brought by the metropolitan municipalities of Tshwane and Ekurhuleni. Municipalities argued that to properly fulfil their duties, they needed extraordinary debt-collecting measures.

New Ventures Consulting and Services, a municipal debt specialist, which has represented several property owners who have carried the liability for historical debt, was a respondent in the matter. The Banking Association of South Africa, commercial property financier Tuhf and the Ethekewini Metropolitan Municipality joined the matter as friends of the court.

Tshwane, Ekurhuleni and Cooperative Governance Minister Des van Rooyen were ordered to pay costs for the appeal application.

At the centre of this court battle was the interpretation of Section 118 of the Municipal Systems Act. The Court ruled that the respective sections of the Constitution, section 118 (3) can be properly and reasonably interpreted to show that the charge would not survive the transfer.

Judgment: New owners of property are not liable for municipal debts incurred before transfer by previous owners
(Jordaan) pic.twitter.com/UNNq7RhEgV

— Constitutional Court (@ConCourtSA) August 29, 2017

Additional reporting by *Moneyweb*

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