

MUNICIPALITIES URGED TO FOLLOW RULES WHEN SETTLING DEBT WITH PROPERTY OWNERS

The Tshwane, eThekweni and Ekurhuleni municipalities had argued that it was lawful for a municipality to attach and sell a purchaser's property in order to pay outstanding debts.



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Gia Nicolaidis | 29 Aug 2017

JOHANNESBURG - Municipalities across the country have been urged to follow the correct procedures when settling debt with property owners.

The Constitutional Court has ruled that upon transfer of a property the new homeowner is not liable for debts arising before transfer.

The Tshwane, eThekweni and Ekurhuleni municipalities had argued that it was lawful for a municipality to attach and sell a purchaser's property in order to settle outstanding debt, but the court found this was a misinterpretation of the municipal systems act.

Municipal debt specialist Peter Livanos says new owners were often blackmailed into coughing up.

“The municipality misinterpreted a Mathabatha judgment where they thought they had a God-like power that they could simply transfer the debt to new owners and hold them ransom essentially.”

Livanos says municipalities have to collect debt from the person or entity who incurred the debt and the City of Johannesburg appears to be the only one to follow this rule.

“City of Johannesburg initially followed the approach where they thought they could, but City of Johannesburg have done it perfectly right so if they can do it, I invite the other 277 town municipalities to do it the right way.”

The court ruled on Tuesday that a new homeowner is not liable for debts arising before transfer.

Municipal debt specialist Peter Livanos says he's represented several clients who were essentially blackmailed into paying historical debt.

“Municipalities thought that they could have the powers to look at debt that they previously failed to collect from owners and simply transfer it to new owners and in effect blackmail them by disconnecting their services, such as water and electricity in some circumstances, and even deny them a consumer agreement.”