



IOL

Property owners not liable for 'inherited' debt: ConCourt

GAUTENG / 29 AUGUST 2017, 1:13PM / ANNA COX



Constitutional Court File picture: Tiro Ramathatse

Johannesburg - In what has been hailed as a major victory for property owners, developers, estate agents and conveyancers, the Constitutional Court this morning ruled that new property owners cannot be held liable for previous owners' debts.

The municipalities of Tshwane and Ekurhuleni have both, over the past few years, been claiming old debts for services from new owners despite the fact that the new owners had been given clearance certificates in terms of Section 118 stating that their accounts were up-to-date.

Section 118, however, only makes provision for two years of arrears. The municipalities were claiming that new owners could be held liable for old owners' debts from up to 30 years previously.

This morning Justice Edwin Cameron delivered the unanimous judgment that confirmed a Pretoria High Court ruling which found this to be constitutionally invalid.

Cameron said the judges found that arrear charges do not survive transfer.

He said that public formalisation of the arrears was required, for example, by registration in the Deeds Registry "so as to give notice of its creation to the world."

"Section 118 does not require this public formalisation process."

He added that Section 118 of the Bill of Rights must be interpreted so that the charge it imposes does not survive transfer to the new owners.

Municipal debt specialist, Peter Livanos, who has been fighting this for years, and who has invested almost R11 million in legal fees, says he was delighted at the outcome.

“It is a great victory for all,” he said.

Attorney Chantelle Gladwin, who was part of the case, also said she was delighted.

She personally, became involved when the Ekurhuleni municipality refused to provide her new tenants with water and electricity because of the debt of old tenants.

The Star

<https://www.iol.co.za/news/south-africa/gauteng/property-owners-not-liable-for-inherited-debt-concourt-10987233>