

ConCourt rules on property debt

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UNLAWFUL: The ConCourt ruled that homeowners cannot be held liable for historical municipal debts. Picture: Supplied

A CONSTITUTIONAL Court ruling re-affirming that new property owners should not be liable for the municipal debt of previous owners has implications for municipalities countrywide.

The court yesterday upheld a North Gauteng High Court ruling that expecting new owners to pay for other people's debts was unlawful. 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 matter came before the high court after the city of Tshwane and Ekurhuleni municipalities suspended, or refused to contract for the supply of municipal services to the applicants' properties on the basis that the applicants, who are relatively recent transferees of municipal properties, owe for municipal services rendered to these properties before

transfer. In other words, the municipalities required new owners to pay historical municipal debts.

The applicants complained that they faced darkness, having no electricity and many other inhumane conditions because they bought property whose previous owners failed to meet their obligations to the municipality and against whom the municipality failed to enforce its rights in fulfilment of its constitutional obligations.

The municipalities contended that the provision was constitutionally sound. In a unanimous judgment, ConCourt led by justice Edwin Cameron, pointed out that the state had conceded that there was nothing stopping municipalities from pursuing monies owed from debtors whether they were still the owners of the property in question or not.

“Therefore municipalities may not sell the property in execution to recover the debt or refuse to supply municipal services on account of outstanding historical debts,” Cameron said.

The case was brought by several property owners who opposed this practice, individuals and corporations owning, or acting on behalf of owners of property in Tshwane and Ekurhuleni after their municipality in question suspended services or refused to conclude consumer services agreement for municipal services until the historical debts relating to the property had been cleared .

At the heart of this court battle was the interpretation of Section 118 of the Municipal Systems Act.

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