

21 May 2021

PURCHASER'S REMEDY WHERE THE PARKING BAY WAS NOT CEDED WITH THE TRANSFER OF THE UNIT

In the event where, during the transfer of a unit that forms part of a sectional title scheme, the exclusive use area allocated to the unit that is being transferred, is not formally ceded to the purchaser by way of a notarial cession, section 24(7)(b) of the Sectional Titles Act provides that such "exclusive use area" vests in the body corporate.

However, this does not mean that the purchaser is without recourse. In *Le Roux v Dunrobin Body Corporate and Others*, the purchaser found himself in just this position. The Western Cape division of the High Court held that it could not be the intent of the legislature to enrich the body corporate at the expense of the purchaser in such a peculiar predicament. Furthermore, the Court held that the provisions of Section 33(1) of the Deeds Registries Act is applicable in this instance, and they are clear in that they provide that any person who acquired in any manner, other than by expropriation, the right to ownership of immovable property may proceed to obtain the appropriate relief under this section. As such, the Court found that section 33(1) of the Deeds Registries Act may be used to cede such exclusive use area from the body corporate to the purchaser, without the need for the Body Corporate to pass a unanimous resolution to this effect.