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THE IMPORTANCE OF THE CORRECT PARTIES TO A SALE AGREEMENT

One of the main requirements for an agreement of sale is that there is certainty regarding the parties who entered into the agreement. In the case of Makepeace vs San Lameer Villa 3212 cc and Others, Mr. Makepeace bought a property on auction from a close corporation, San Lameer Villa 3212 (hereafter called the seller). However, the bond approval was negotiated by his wife, Mrs. Makepeace and bond approval in principle was also then obtained by her.

This led to the question being asked whether Mr. Makepeace was indeed the purchaser or whether it was Mrs. Makepeace who obtained the bond approval in principle. Mrs. Makepeace instructed that she wanted to be substituted as the purchaser. This caused a substantial delay in the transferring process and San Lameer Villa 3212 decided not to grant permission for the substitution because it would only further delay the proceedings. The purchaser then made an application to court to keep the seller bound to their agreement.

The court dismissed the application on the grounds that the purchaser should initially have stated their clear intention to purchase the property in the name of Mrs. Makepeace. Even though Mrs. Makepeace was able to obtain a guarantee from the bank, this was not sufficient to substitute her as the purchaser of the property in the agreement of sale.

In conclusion, correctly identifying the seller and purchaser to an agreement of sale remains vital for the validity thereof.