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WHAT HAPPENS TO THE TENANT WHEN THE PROPERTY IS SOLD?

The Rental Housing Act is the legislation applicable in immovable rental agreements. In circumstances wherein the property rented has been sold to another, the law continues to afford protection to the tenants on the property. The protection is provided for in the maxim of **huur gaat voor koop**, which simply means that the rental contract continues until its expiry even after sale of the property to a third party. In other words, both the tenant and the new landlord will be bound by the rental contract.

The main purpose of this maxim is to protect the most important legal obligations created in the rental contract namely: The tenant continues to pay rent to the landlord and that the tenant has undisturbed occupation and enjoyment of the property.

This maxim does not afford protection to the rental agent and the mandate for the rental does not continue, as the mandate does not bind the purchaser. It must therefore be clearly stipulated if the purchaser will take over the rental agent, or if the mandate will be terminated.

Kindly contact MC van der Berg for comprehensive advice and wording of the relevant clauses to cover this aspect.