

Subscribe

| Forward email |

| Afrikaans



Comprehensive legal solutions in a rapidly changing business environment

Kramer Villion Norris - KVN

November 2014

### Developers: Register Or Regret



Residential property developers need to note the recent Constitutional Court judgment confirming that you must register with the NHBRC (National Home Builder's Registration Council) before you conclude a building contract or commence building – if you don't (or if you register late) **you cannot enforce payment**. In fact you commit a criminal offence just by accepting any payment.

It is not enough that whichever building contractor/s you use to do the actual construction is/are registered – **both** you as developer and your contractor/s must be registered.

| READ MORE |



## Attacking A Trust (And Defending It)

***"Invincibility lies in the defence; the possibility of victory in the attack" (Sun Tzu)***

It's an all-too-common scenario. When you try to recover your money from a debtor, you find that all his/her assets (including the luxury home, holiday house and ocean-going yacht) are held by a family or business trust.

### **Creditors: Follow the Assets**

- Prevention being as always better than cure, investigate your debtor's financial position before granting credit, and take suretyships and other security from the trust and any other related entities that actually hold any of your debtor's assets.
- Look for loan accounts and unlawful dispositions . . .

**| READ MORE |**

## Damages For Adultery - Dead As A Dodo?

***"The Dodo suddenly called out 'The race is over!'" (Lewis Carroll, Alice in Wonderland)***

Your spouse's adulterous affair ruins your happy marriage – can you, as the "innocent" spouse, sue the "third party" for damages?

Our law has for centuries recognised such damages claims for adultery, and these are usually based on –

- Insult or injury to your self-esteem ("*Contumelia*" in lawyer-speak), and/or
- "Loss of comfort and society" of your spouse (loss of "*Consortium*")

Now the Supreme Court of Appeal (SCA) has, in a decision setting aside an award of R75,000 damages in favour of a husband against the man with whom his wife had committed adultery . . .

**| READ MORE |**

## Whistle-Blowing: A Facebook Foul Up

***"Whistleblowing should be encouraged. Employees who risk occupational detriments by making bona fide and reasonable disclosures about irregularities at the workplace if their attempts to have the employer address such irregularities, fall on deaf ears, must be protected" (extract, Labour Court judgment below)***

Last month (see "Whistle(Blowing) While You Work" in LawDotNews October 2014), we looked at the case of a mining engineer who was dismissed by his employers after he made public disclosures relating to the inadequacy of their pollution prevention measures. The Court set aside his dismissal after finding that his disclosures were protected in terms of the Protected Disclosures Act ("PDA").

The other side of the coin is illustrated in another recent case where the dismissal of a hospital electrician was confirmed as fair . . .

**| READ MORE |**

## Property Buyers: Don't Pay The Seller's Old Rates Without Legal Advice!

You buy your dream house but are shocked to learn that (a) the seller still owes the municipality for old rates and taxes and (b) you can't get a new electricity account unless and until you settle all these arrears. You point out how unfair it is that you are being asked to pay someone else's debts, but the municipality won't budge. What can you do?

Regular readers (see LawDotNews April 2014: "Rates Clearance – a New Risk for Buyers?") will remember the controversy over whether buyers might be exposed to this type of claim in respect of rates older than 2 years i.e. those not included in the municipal clearance certificate.

Now a new High Court judgment has it seems settled the question in favour of buyers at sales in execution, holding that a municipality cannot refuse to supply such buyers services such as electricity, water, sanitation and waste removal only because of old outstanding municipal debts.

**| READ MORE |**

## The November Website: "Ice" And Emergency Numbers

As the holiday season approaches many of us will be travelling, and unfortunately that increases your risk of being involved in a serious accident. Don't be caught unprepared - put **ICE** ("In Case of Emergency") numbers onto your cell phone, and make sure that all your family members do the same BEFORE travelling.

ICE numbers make it easy for emergency and hospital personnel to contact your loved ones if you can't speak for yourself. Without ICE numbers they will have to trawl through your Contacts, and take a guess as to who to phone first. Use "ICE1", "ICE2", "ICE3" etc for multiple numbers.

See Arrive Alive's page "[Cellular Technology and Road Safety](#)" for more emergency numbers and suggestions.

**Disclaimer**

The information provided herein should not be used or relied on as professional advice. No liability can be accepted for any errors or omissions nor for any loss or damage arising from reliance upon any information herein. Always contact your professional adviser for specific and detailed advice.

© DotNews. All Rights Reserved.



**A Client Connection Service by DotNews**