



LAW LETTER

Supplement

May 2007

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join the queue

When Christo Costas defaulted on the home loan account for his Camps Bay apartment, Nedcor obtained judgement against him. Before Nedcor could take the next step of attaching the apartment and selling it in execution, Costas sold the property to Dream Supreme Properties 11 cc.

Costas notified Nedcor of the sale, but the bank was not going to be put off so easily. The bank proceeded to attach the property and sell it to a third party, following a sale in execution. Dream Supreme Properties, clearly disappointed as the dream of owning a Camps Bay apartment rapidly diminished, ap-proached the court to set aside the sale in execution.

The matter ended up in the Supreme Court of Appeal. Dream Supreme Properties argued that because Nedcor had been notified of the sale of the apartment by Costas to Dream Supreme Properties, the subsequent sale in execution to a third party

should be set aside.

The Supreme Court of Appeal disagreed. The court found that knowledge on the part of Nedcor of the sale of the property to Dream Supreme Properties did not invalidate the sale in execution of the apartment. The attachment of assets provides creditors with a right to sell a debtor's assets and settle their claims from the proceeds. The court reasoned that, if the attachment were set aside, it would open the door for unscrupulous debtors to fabricate sales and thwart the legitimate efforts of creditors. As the property had only been sold, but had not yet been transferred through the Deeds Registry, Costas remained the owner of the apartment. As such, Nedcor was perfectly entitled to attach and sell the apartment in execution to the third party.



by Maatla Hlapolosa
Litigation Division

bee code for smaller business

The final Broad-Based Black Economic Codes of Good Practice have recently been published. The finalized codes represent a refinement and expansion of previous drafts,

with many of the original principles remaining intact. One new concept,



by Tim Brown
Commercial Division



To be good is noble; but to show others how to be good is nobler and no trouble. Mark Twain



however, is the introduction of a separate code for Qualifying Small Enterprises.

A Qualifying Small Enterprise is a business with an annual total turnover of between Five and Thirty Five Million Rand, and which does not fall into any of the specified sectors, such as forestry or banking. Qualifying Small Enterprises apply a simplified BEE scorecard. The scorecard contains the seven elements applied by other business (i.e. ownership, management control, employment equity, skills development, preferential procurement, enterprise

development and socio-economic development), but the scoring of these elements is somewhat less complex.

The big benefit is that Qualifying Small Enterprises may choose four out of the seven applicable elements against which to be scored. A Qualifying Small Enterprise is, therefore, able to choose the four elements on which it scores most highly. If BEE scoring is undertaken carefully, Qualifying Small Enterprises have now been placed in a position to strategically increase their potential score.

staff news

An evening with Chris Duigan

Venn Nemeth & Hart's Trustee Division recently hosted an evening of classical music with Christopher Duigan, our city's renowned pianist. The Maritzburg drizzle did not dampen the festivities - clients enjoyed first class entertainment, good company and great snacks.



From left to right: Dr Terence Rockey, Gerry Meyer, Karl Steiner and Andrew Smythe



From left to right: Linda Smythe, Jill Steiner, Heather Rockey, Chris Duigan and Hannah Szudrawski, the director heading up the Trustee division

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