

Registration Characteristics

Both positive and negative

- 1) State guarantees to 3rd party that register in deeds registry is an authoritative record to clearly defined units of land
- 2) State examines/investigates doc & transaction for legality
- 3) State completes & maintains a register of title
- 4) Register is linked to cadastral system of maps & diagrams
- 5) Linking of transactions occur
- 6) High degree of state interference
- 7) State incurs no liability for same
- 8) New deed endorsed & state register maintained

Parties

Deeds Office

Conveyancer

Land Survey

Surveyor General

Local Authorities

State Departments

SARS

Property Developers

Financial Institutions

State Liability

Can recover damages S99 if prove

- 1) loss resulted from Act or omission of a register or official employee employed in registry, and
- 2) the act or omission was committed in bad faith or as a result of failure to exercise reasonable care & diligence

Conveyancer

Specialist in preparation of deeds & docs destined for deeds registry

Passed an additional national conveyancing exam

Been admitted to practise in HC

Been enrolled on an electronic register of conveyancer at DO

Duties of Conveyancer

Ensure validity of Deed of Sale its S2 of Alteration of land

○ Merge financial matters & transaction process

Prepare deeds & docs

Take responsibility for correctness of facts

Link Deeds

Lodge Deeds

Execute & Register Deeds

Registration payout

Duties of Registrar S3

Take care & preserve all records

Examine all deeds

Record interdicts

Keep register

Give access to public register & records

Powers of Registrar S4

Require proof by affidavit or otherwise of any fact

Rectify any error relating to name, description or condition

Certify & issue copies

Order certified copy to be obtained to replace illegible/unrecoverable

Submit reports to Court in applications

Forms

E sale, donation, inheritance

F Partition Transfers

G Expropriation transfers

H transfers in compliance with Court Orders

CC initial ownership

DDD transfers to Acts

Sections to Documents

① Preparation Clause

Preamble

Recital

Nesting clause

Property Clause

Extending Clause

Conditional Clause

Divesting Clause

Consideration Clause

Execution Clause

Reasons for Transfer

Sale

Donation

Succession

Exchange

Rectification

Owner

Natural Person

Company

CC

Trustee of insolvent estate

Liquidator of Company or CC

Executor of deceased estate

legally recognised representative minor, insane, disabled

① Supporting docs to Transfer

Special Power of Attorney

Transfer Duty Receipt or exemption certificate

Banks Clearance Certificate

Consents

Insolvency's Solvency Affidavits

Supporting Docs on file

Special Transfers

Estate transfers

Partition transfers - subdivision
| partition

Expropriation transfers

Transfers by way of Court Order

Deeds of Grants

Transfers by endorsement

S16 → acquisition of land by State or Local Authority

S25bis(2) → Dissolution of a firm or partnership

S25(3) → Establishing the identity of children

S58(2) → reversion of property to insolvent

S45 → transfer to surviving spouse m/z esp

S45bis(1)(a) → Parties are divorced

S. 45 bis (i)(b) → court order during subsistence of marriage

S. 45 bis (iA)(a) & (b) → vesting in both former spouses

Substituted Title / Certificate of Registered Title

S. 34(1) → CoRT for undivided share

S. 34(2) → Co-owners joint CoRT is lost

S. 35 → Consolidation of various shares in various properties

S. 36 → split properties held under one title

S. 38 → when original's DO copy is lost

○ S. 39(1) → correct error in registration

S. 43 → land held by virtue of township title → partition

S. 39(2) → omit conditions no longer applicable

S. 18 → certificate of registered state title

S. 40 → Certificate of consolidated title

S. 46(i) → Certificate of township title

Mortgage bond Types Section's

Heading

Preparatum Clause

Preamble

Acknowledgement Clause

Mortgage

Amount

Cause of debt / causa

Waiver of legal exceptions

Non causa debiti

Non numeratae pecuniae

Revisio et account, errore calculi et non valde recepit

De duobus vel pluribus reis debendi

Beneficium ordinis seu excussionis

Beneficium divisionis

Interest & repayment clause

Cost clause

Ranking

Property & security clauses

Special conditions of title

Domicilium citandi et executandi

Execution Clause

Special Power of Attorney

① Types of Mortgage Bond

Mortgage Bond

Collateral Bond

Surety Bond

Covering Bond

Debenture bond

Kinderbewys mortgage bond

Judicial mortgage bond

Kustingsbrief

Sectional mortgage bond

Participator mortgage bond

Substitution of debtor

S24bis (3) : dissolution of partnership

S45 (2)(d) : joint estate to surviving spouse

S51 : purchaser takes over bond

Section 14

All transfers must occur in sequence

Exceptions to Section 14:

S14(i)(b)(i): if devolve on descendant go directly to their descendants

S14(i)(b)(ii): sale out of estate to purchaser

S14(i)(b)(iii): redistribution agreement

S14(i)(b)(iv): redistribution must be in L3 D

S14(i)(b)(v): S14(b)(iii) apply mutatis mutandis

S14(i)(b)(vi): fiduciary interests expires before transfer

S14(i)(b)(vii): judgment, court order, sale in execution

S33(1): court order if cannot do normally

○ S92(2): donated in terms of ANC

S211bis: shareholding in partnership changes

Diverse applications 3 endorsements

4(1)(b): amendment of error

17(4): marital status changes or not reflected

144: resurvey's extent changes

68(1): lapse of personal servitude

68(3)(1): change of name of person or property

93(2): offensive name

Applications into Estates Act, Companies Act

De { 39(2): usufruct or proceeds devolve on uncertain persons

39(3): cost of transfer causes hardship

40(1)(b): if property left to be administered by Trustees

applies 44~~3+9~~: name changes

49: liquidation or winding up noted

29: Conversion of CC to Company