

## CHIEF REGISTRAR'S CIRCULAR NO. 7 OF 2011

### APPLICATION OF SECTION 25(13) OF THE SECTIONAL TITLES ACT, 1986 (ACT 95 OF 1986)

#### 1. *Roseparkadmin CC and Others v The Registrar of Deeds (Western Cape High Court Case No. 5522/2011 dated 17 May 2011)*

1.1. In the above-mentioned case, Weinkove AJ ordered the setting aside of a rejection note that was made in accordance with Registrars' Conference Resolution 2 of 2009, together with an order for the registration of the relevant deeds.

1.2. The following, amongst others, is recorded as "*Reasons for Judgement*":

- Section 25(13) of the Sectional Titles Act 95 of 1986 ("the Act") provides "*that it is the owner who feels that he is prejudiced by the changes who alone may apply to court and it is not the developer who is required to make that application.*" (par. 13).
- Reference is made to *PLC Trust and Others v The Registrar of Deeds Bloemfontein and Others (case no. 4863/2010)*, where it was held that the Act made no provision for the withholding of registration before permitting a deviation from the original plan. The Act does also "*not expressly place any duty on the Registrar of Deeds to approve the extension plan or not. That approval must be given by the Surveyor-General. All the Registrar of Deeds must do to is satisfy himself that all the formalities prescribed by the Act for registration have been complied with. He is not called upon to investigate or decide on the need for any amendment or extension of this scheme.*" (par.18).
- The Judge agrees with the Judgement in the PCL Trust case and "*relieves the Registrar of Deeds from having to extend his obligations in connection with the registration of these schemes.*" (par.21).

#### 2. **Suspension of RCR 2 of 2009**

2.1. In view of the '*Reasons for Judgement*' in the *Roseparkadmin* case, deeds examiners no longer need to examine draft sectional plans lodged with applications in terms of section 25(9) of the Act.

2.2. RCR 2 of 2009 is suspended with immediate effect and will be referred to the next Registrars' Conference for withdrawal.

1   
CHIEF REGISTRAR OF DEEDS  
DATE: 24 JUNE 2011

REFERENCE : A. 6/2/P  
RINGBINDER : 55

CHIEF REGISTRAR OF DEEDS  
REGISTRARS OF DEEDS  
THE CHIEF: JUSTICE TRAINING : PRETORIA  
DIRECTOR: LAW SOCIETY OF SOUTH AFRICA : DURBAN  
MANAGER: BUTTERWORTHS PUBLICATIONS : PRETORIA  
CHAIRPERSON: PROPERTY LAW COMMITTEE