Unlocking the value in 'abandoned' sectional title units

What happens when the levy and bond arrears on a sectional title unit together total more than the property is worth?

"There is no provision in the Sectional Titles Act for the body corporate to write off levy arrears and facilitate the sale of the unit in such cases," says Andrew Schaefer, MD of leading national property management company Trafalgar, "but they are occurring more and more often, especially in inner city blocks of flats where there has been no strong body corporate or group of trustees to prevent levy arrears getting out of hand, and a solution needs to be found."

Ideally, he says, what should happen when an owner gets into arrears with the levies and won't or can't pay the outstanding amount is for the body corporate to obtain a debt judgment and sale in execution order, so that the unit can be attached by the Sheriff and auctioned off to a new owner at a price that at least covers the levy debt and whatever bond amount may be outstanding at that time.

"Alternatively, if the bids at the auction are not high enough to accomplish that, the bank holding the bond is supposed to take the unit into possession itself and try to resell it at a later stage – after paying the outstanding levy amount so that the body corporate can issue a levy clearance certificate."

However, Schaefer notes, it appears that in most such cases this does not happen now, with the result that the body corporate is left with an unsold unit (on which the levy arrears continue to mount) that cannot be transferred to a new, levy-paying owner.

"Sectional title budgets are worked out on the basis of all owners paying their levies, and when some don't, the body corporate can quickly experience cash flow pressure with defaulting owners being subsidised by those who do keep up to date with their levy payments.

"And a unit that has become 'dead wood' as outlined above will obviously compound this problem, which is why we believe it is preferable for the body corporate itself to become the owner of the unit, upgrade it and then either sell it to a new owner who does pay levies, or rent it out and get income from it in that way."

This can be achieved, he says, if the body corporate has sufficient funds available to purchase the unit at the sale in execution and settle the outstanding bond to the satisfaction of the bank involved.

"Unlocking this difficulty is obviously complex, with many conflicting interests among the parties involved. But at the same time, the growing number of inner city units with market values less than their combined levy and bond arrears is a major challenge and risk to all the owners in those schemes."

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