

## PERSONALISED LEGAL ASSISTANCE

Professional legal and property consulting

### **SONNENBERG & ASSOCIATES PROPERTY AND LEGAL ADVICE NEWSLETTER #95**

#### **1. Legal Quotes**

"There is a general prejudice to the effect that lawyers are more honourable than politicians but less honourable than prostitutes. That is an exaggeration." [Alexander King]

"The only thing a lawyer won't question is the legitimacy of his mother." [W C Fields]

"Law students are trained in the case method, and to the lawyer everything in life looks like a case." [Edward Packard, Jr]

#### **2. Legal short**

A man boarded an airplane in Johannesburg with a box of frozen crabs and asked a stewardess to take care of them for him.

She took the box and promised to put it in the crew's refrigerator. He advised her that he was holding her personally responsible for them staying frozen, mentioning in a very haughty manner that he was a lawyer, and proceeded to rant at her about what would happen if she let them thaw out.

Needless to say, she was annoyed by his behavior. Shortly before landing in Cape Town, she used the intercom to announce to the entire cabin, "Would the lawyer who gave me the crabs in Johannesburg, please raise your hand."

Not one hand went up . . . so she took them home and ate them.

#### **3. Inspiring quotes**

"You are confined only by the walls you build yourself." [unknown]

"In the middle of difficulty lies opportunity." [Albert Einstein]

"He who knows best knows how little he knows." [Thomas Jefferson]

#### **4. Appointment of the Conveyancer in a Property Sale**

In South Africa it is accepted practice that **the Seller appoints the conveyancer, despite the fact that the Purchaser is responsible to pay the conveyancing fees**. Why is this?

In terms of our common law, the Seller had the right to appoint "an agent" to complete a contract. We have adopted this approach, but **the more important reason is that the Seller is at far more risk than the Purchaser**: it is the Seller's property which is being transferred (it remains his property and at his risk until possession passes – which usually is on transfer in the deeds office - unless otherwise stipulated in the Agreement of Sale).

Furthermore, **most of the financial obligations in the contract** (payment of the purchase price, transfer costs and occupational rental, if applicable) **must be fulfilled by the Purchaser**.

**When there is a breach of the conditions as contained in the Offer to Purchase, more often than not it is the Purchaser who defaults.**

If the conveyancer has been appointed by the Purchaser, the conveyancer then finds himself in an awkward position, as he has to compel his own client (the Purchaser) to perform in terms of the agreement. The conveyancer, in these circumstances, has a **conflict of interest**, and is obliged then to withdraw as the transferring attorney. **This often gets expensive and messy, with the result that the transfer can be delayed, to the detriment of both parties.**

It is important to note that the **conveyancer**, whilst representing the Seller, has a **duty towards both parties** to make sure that the terms and conditions as contained in the Offer to Purchase are fulfilled. **If a dispute between the parties arises, the Purchaser always has the right to consult his or her own attorneys.**

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**Refer your transfers to me for personalised professional service.**

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