

## TRANSFER COSTS

A Purchaser of immovable property must bear in mind that transfer costs are payable in addition to the purchase price.

Purchasers often complain that Conveyancers are expensive. In defence of Conveyancers it must be said that by Law it is required from Conveyancers to collect various taxes payable to the Government in respect of acquisition of immovable property namely inter alia transfer duty, stamp duty, Deeds office fees and VAT. The amount collected by Conveyancers in respect of the above duties are paid by Conveyancers to the Government. The Conveyancing fee retained by the Conveyancer only represents approximately 8% of the total account rendered in respect of transfer costs, a fact which is often not realised by Purchasers.

In order to pay less transfer costs, more specifically less transfer duty, developers and purchasers often "structure" their transactions in various ways. A developer of a Sectional Title Scheme will e.g. make use of Close Corporations combined with partition transfers to minimise the amount of transfer duty to be paid. As no transfer duty or stamp duty is presently payable in respect of a sale of members interest in a Close Corporation or a Sale of Shares in a Company, this structure or vehicle is often used by purchasers to avoid payment of transfer duty and stamp duty. We have to point out that legislation is underway next year in terms of which transfer duty will become payable on a sale of members interest in a Close Corporation and a sale of shares in a Company, if the Close Corporation or Company is the owner of immovable property.

Sellers and Purchasers sometimes agree not to reveal the correct purchase price in the Deed of Sale. A lower purchase price is then stated in the Deed of Sale in order to reduce the transfer duty. The balance of the purchase price is often "covered" by an oral agreement between the parties. Apart from the fact that this "structure" poses a risk for both the Seller and Purchaser, this structure also defrauds the Receiver of Revenue and constitutes a crime. Needless to say that Conveyancers participating in such a structure should realise that their participation also constitutes unprofessional conduct.

Purchasers are advised to seek the assistance of a Conveyancer in order to structure a transaction in the best possible way without taking unnecessary risks which might in the end prove to be penny wise and pound foolish.