



## Is a Body Corporate insulated from prescription of levy debts owed by its members?

Article by Fausto Di Palma, Sectional Title Solutions (Pty) Ltd and Adv Viviana Vergano, Johannesburg Bar

In the recent case of *Body Corporate of Sante Fe v Bassonia Four Zero Seven CC* the body corporate applied for liquidation of the respondent unit owner (a close corporation) based on outstanding arrear levies due to it in respect of two units owned by the respondent in the Santa Fe Sectional Title Scheme. The focus of this article is on the specific defence of prescription raised by the unit owner, Bassonia Four Zero Seven CC ("the respondent"). The respondent argued that the outstanding levies had prescribed in terms of section 11(d) of the Prescription Act ("the Prescription Act") which provides that "the period of prescription of debts shall be, save where an Act of Parliament provides otherwise, three years in respect of any other debt" ...

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As the hazy days of Summer begin to disappear, homeowners around the country, particularly those in community schemes, such as bodies corporate and home owners' associations and the like, are being reminded of the all-important matter of 'seasonal maintenance'. Not a popular subject of discussion, but vitally important in order for schemes to run efficiently and for trustees to meet the legal and fiduciary requirements of the members they serve.

"There's never a convenient time to do maintenance," says ZDFin CEO Michael Schaefer, "especially if your scheme is short on financial resources, but the longer you put it off the worse (and more costly) it gets with associated costs often increasing exponentially over time. Our approach is that forward planning is the key to success. Cashflow is often the main stumbling block for schemes and as a result, essential maintenance work such as water and damp-proofing, spalling, window maintenance, roof repairs, hot water systems etc., get pushed to the back burner until it becomes critical....and costly."



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