

DEFAULTERS COULD LOSE HOMES

THE INDEPENDENT ON SATURDAY, JULY 22, 2000 by Paddy Harper

Rates defaulters who owe Durban's municipality more than R28-million in arrears will lose their properties by auction from the end of the month unless they pay up by Friday.

A total of 2 342 properties and 20 bodies corporate of blocks of flats face sales in execution for rates arrears for 1997, 1998 and 1999, city treasurer Mr. Krish Kumar said last night.

While the axe is set to fall on defaulters, there is good news for owners of sectional title flats who have paid rates, but were facing sanction because of other non-paying residents.

A High Court judgment obtained by the North Central and South Central Local Councils as part of its collection process allows the city to act against individual defaulters.

Before the judgement, the terms of the Sectional Title Act meant that municipalities were forced to act against entire buildings, rather than individuals. Effectively, people who have paid their levies - and through these their rates - will now not lose their flats because of fellow residents who have not paid.

The judgment also allows the council to act against individual members of bodies corporate - 20 of which owe the city R2,4 million - to recover arrears on a pro-rata basis by applying to court for a joinder against them.

North and South Central Executive Committee member Mr. Inba Naidoo said that because of the judgment, "faithful payers of levies will be spared the kind of sanction previously in place".

Councillor Sayed-Iqbal Mohamed said the test case was a victory for the democratic rights of levy payers who had faced losing their properties because of other owners who had defaulted either through negligence, ignorance or arrogance. Mohamed, convener of the Organisation of Civic Rights (OCR), intervened in the issue, along with Naidoo, in an attempt to save owners who had paid levies from losing their property along with defaulters.

"About this time, council was poised to proceed with the sale in execution, having obtained judgments or in the process of obtaining judgment against bodies corporate that were in arrears with their rates," Mohamed said.

Immoral

"I believed that it was immoral to act against diligent levy payers, even though the respective bodies corporate did not perform their duties efficiently."

Kumar said last night that the sale in execution around the first batch of defaulters would take place on July 31. Court action would take place on August 3 to secure a joinder against body corporate members refusing to pay arrears.

"Effectively, this process is what paying members of the public wanted," Kumar said..

"People who pay what they owe will be protected while we will take action to recoup payment from those who won't," Kumar said.

"We urge all the arrears ratepayers to be mindful of the auction and judgement dates, and to make a concerted effort to settle the outstanding rates in order to save their properties from the sale in execution."

While it is not clear what approach Johannesburg and other municipalities would take against defaulters, Mohamed believes Durban's approach sets a precedent for local government to move against individual defaulters in sectional title situations around the country before new legislation granting them such powers is passed in Parliament at the end of the year.