



FAST, EASY, SIMPLE

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What do you need to know if your house is being repossessed?

Have you received a final notice of payment from your body corporate or bank?

Do you own a property where the sheriff is starting to send you rude letters?

Has an auction date been set by the sheriff?

Are you not sure what to do or what is going to happen? This note is meant to help you through the process and give you a high-level view of what you might need to know.

Your home is one of the most important assets you could have and is well worth trying to keep, or if nothing else to try and keep some of its value. Sometimes life gets in the way and for whatever reason it becomes difficult to service your bills. South Africa has processed more than 100 000 foreclosures since the constitution came into effect in 1995. Given all of this it might seem like your options are limited, but you can still do something about it. It is well worth trying to avoid so we've tried to pull together some information which might be able to help you navigate your journey.

There are normally two ways in which a property could be attached (foreclosed or repossessed):

- **The Bank:** More often than not people take a loan from their bank in order to purchase their property. Banks need to make sure that the money that they have invested into your property is protected so they are quite sensitive to missed payments. If you haven't been able to pay your monthly instalments the bank normally get their legal teams involved quite quickly. The bank would normally send you a few letters, smses and try to call you in order to make some arrangements to settle the outstanding. In the process the bank might charge legal fees to your account which you would now be liable for (for you to pay). Strictly speaking, when you bought the property the ownership of the property was given to you and the bank would have put a note against it in the deeds office. This means that the property is yours and not the banks, however the note would allow the bank to process a claim against the property if you aren't able to pay them what was indicated in the credit agreement. What this means is that if you aren't able to pay the bank then the bank has the right to try and reclaim their investment by selling your property. How they do that is by approaching the Sheriff of the Court (the Sheriff) to run a public auction to sell your property (this is called attaching the property) and to ultimately get their money that way.
- **The Body Corporate:** If you have an apartment, cluster or townhouse then when you bought your property you would have joined something called a sectional scheme. Being part of a sectional scheme requires that you abide by the body corporate's rules and regulations which are registered with an organisation called CSOS. These rules normally allow the body corporate to take legal action against any members of the scheme who are behind on their payments. If you aren't able to pay for your body corporate levies then the amount outstanding tends to go up. In the same way that the bank would get a legal team involved so

would the body corporate. This would naturally incur costs and those costs would be allocated to your account. At some stage the body corporate might also approach the Sheriff of the Court in order to start proceedings to attach the unit/property. In the same way as above, this would allow the body corporate to recover its outstanding bills during the auction of your unit/property.

Unfortunately, neither of the above situations is very nice nor would it be very good financially for you because of the additional costs and stresses that go with it. Also, properties sold on auction normally sell for a fraction of the real value which means that it's not good news for you, unfortunately

The good news is that there are some options (not many, but some at least) that you might have if you're able to do it early enough in the process:

	Benefits	Challenges
Property goes to auction (Repossession or Foreclosure)	<ul style="list-style-type: none"> You have the ability to let someone else take over the problem The buyer would be liable to settle any rates & taxes or body corporate levies that are outstanding (normally factored into the price anyways) 	<ul style="list-style-type: none"> You will be blacklisted which means that financial services organisations won't consider you for at least 5 years Properties sold on auction normally sell for a fraction of what it's worth and you (most likely) won't see any value coming out of the sale of your property (i.e. you'll lose the property all together)
Sell property in the open market (Estate agency)	<ul style="list-style-type: none"> You'll get the most for your property this way and possibly allow you to walk away from the property with some money in your pocket Avoid black-listing if you're able to sell in time 	<ul style="list-style-type: none"> Selling properties in the open market takes a long time which sometimes you can't afford. <ul style="list-style-type: none"> A few weeks to list it. At the moment properties normally take >6weeks to find a buyer. ~50% of buyers don't qualify for their bonds which will delay you by ~1 month and you'll have to start the whole process again. You'll need to give up your privacy and let lots of people walk through your property In order to avoid foreclosure you'll need to settle the minimum amount with the body corporate or bank which sometimes you might not be able to access. You would still need to settle any rates & taxes or body corporate levies that are outstanding before you can sell. This is normally difficult for someone who is in the foreclosure process anyways.
Sell property to an investor	<ul style="list-style-type: none"> If you find a reputable investor (normally a cash investor) this 	<ul style="list-style-type: none"> You would have to give some value away to enable the transaction but is normally a much better outcome

	<p>would be the fastest way to avoid the headache</p> <ul style="list-style-type: none"> • You could structure the deal in such a way that you could still get value out of the transaction (either on sale or ongoing) even after settling rates & taxes or body corporate levies that are outstanding • Avoid black-listing if you're able to sell in time 	when compared to the property going to sheriff auction
Restructure your finances or find other money to settle your outstanding amounts	<ul style="list-style-type: none"> • If you're able to find the money you could settle the outstanding amounts and hold onto your property 	<ul style="list-style-type: none"> • If you're in arrears on payments already then finding the required financing could be difficult

Once a Sheriff's auction date has been finalised for the sale of your property then it's probably too late to try and find an estate agent to sell your property on the open market. At this stage there are only really two options that one could take. Firstly, you could try and get hold of money in order to settle the minimum amount with the bank or body corporate and get them to postpone the auction. This money could be gained funded through any savings you might have, other credit that you could get access to, friends family or investors who are willing to help. Secondly, you could sell the property before the auction but in order for the sale to be considered the deal would need to be unencumbered (there shouldn't be any delays) which means that it would need to be a cash deal with the new purchaser being able to transfer the funds into the attorney's account well before the auction date. Although possible, this requires very specific investors who are able to come up with funds that quickly.

Naturally this could all be a lot to take in. Also, you're never really sure who to turn to. Having said all of that, if you would like to discuss anything more or if you'd like to unpack your options in more detail then please feel free to contact me on 083 692 6576 or send me a mail on mark@markbuyshouses.co.za.

Regards,

Mark Berrington