

01

FREEHOLD



- **NATURE OF RIGHT:** Owner owns the property, which ownership comprises the full bundle of rights associated therewith.
- **PROOF OF OWNERSHIP:** Title deed registered in the Deeds Registry.
- **NATURE OF PROPERTY:** Includes erven (township register), farms and agricultural holdings (land register).
- **HOW THE RIGHTS ARE TRANSFERRED:** The owner sells/ bequeaths/donates or otherwise disposes of the property and ownership is transferred by means of a Deed of Transfer registered in the Deeds Registry.
- **MORTGAGE?** Yes, existence of a mortgage bond is endorsed against the title deed of the property.

02

LEASEHOLD



- **NATURE OF RIGHT:** Owner has extensive rights to the property, akin to ownership rights, but for a limited period of time e.g. 99 years. While it lasts, the leasehold right comprises the full bundle of rights associated with ownership.
- **PROOF OF HOLDER'S RIGHTS:** Leasehold title deed registered in the Deeds Registry.
- **NATURE OF PROPERTY:** Includes erven (township register), farms and agricultural holdings (land register) and sectional title (sectional title register).
- **HOW THE RIGHTS ARE TRANSFERRED:** The owner sells/ bequeaths/donates or otherwise disposes of the leasehold right in the property and it is transferred by means of a deed of transfer registered in the deeds office.
- **MORTGAGE?** Yes, existence of a mortgage bond is endorsed against the title deed of the property.

03

SECTIONAL TITLE



- **NATURE OF RIGHT:** Owner owns the unit and the ownership comprises the full bundle of rights associated with the term “ownership”.
- **PROOF OF OWNERSHIP:** Title deed registered in the Deeds Registry.
- **NATURE OF PROPERTY:** Unit in a sectional title scheme (sectional title register). A unit is a section in a scheme together with an undivided share in the common property (calculated in accordance with the participation quota of the unit). The owner can also hold real rights to parts of the scheme’s common property, by virtue of a notarial deed of cession of exclusive use area, registered in the Deeds Registry.
- **HOW THE RIGHTS ARE TRANSFERRED:** The owner sells/bequeaths/donates or otherwise disposes of the property and it is transferred by means of a deed of transfer registered in the deeds office. Rights to exclusive use areas are ceded in terms of a notarial deed of cession of exclusive use area, registered in the deeds office.
- **MORTGAGE?** Yes, existence of a mortgage bond is endorsed against the title deed of the property.

04

SHARE BLOCK SCHEMES



- **NATURE OF RIGHT:** The holder of shares in a share block company does not own the property, the share block company owns the property. The holder owns the shares.
- **PROOF OF HOLDER’S RIGHT:** Share Certificate and Use Agreement.
- **NATURE OF PROPERTY:** Includes erven (township register), farms and agricultural holdings (land register).
- **HOW THE RIGHTS ARE TRANSFERRED:** The owner of the shares sells/bequeaths/donates or otherwise disposes of the shares to a purchaser. The purchaser will enter into a ‘use agreement’ with the company, in addition to acquiring the shares, which agreement sets out the rights to a specific property.
- **MORTGAGE?** No, only immovable property can be mortgaged, not shares. The share block company may mortgage the property.

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THE DIFFERENCE BETWEEN SECTIONAL TITLE AND SHARE BLOCK SCHEMES

- A share block scheme involves the selling of shares in a share block company which owns a building and the on selling of shares (coupled with a use agreement concluded between the shares purchaser and the share block company) entitles the shareholder to occupy a portion of the building.
- Generally, these shares cannot be mortgaged and the transfer of the right to occupy is affected by a share transfer as opposed to registration in the Deeds Office.
- In the past, the benefit of a share block was that there was no transfer duty payable upon transfer of a share. Nowadays transfer duty is payable on the transfer of shares or interest in a residential property company.
- A risk of holding shares in a share block company is the possibility of the company becoming insolvent.
- Share blocks can be converted to a sectional title scheme if half of the shareholders support the resolution of directors to convert. From a shareholder's point of view, the main advantage of converting is that they become owners of immovable property rather than holders of shares in a company. They will have the advantage to mortgage the section under a home loan and participate in the management of the scheme as a member of the body corporate.

06

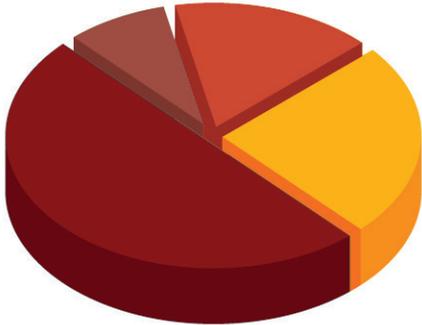
TIME-SHARE



- **NATURE OF RIGHT:** The underlying legal structure of the scheme will decide whether the holder of the time share rights owns a share in the property. If based on sectional title, the holder owns an undivided share in the property, e.g. 1/52nd share. But time-share can also refer to rights in a type of holiday club in terms of which membership gives right to use and enjoyment of property. Otherwise, the scheme can be based on a share block arrangement in terms of which the shareholding grants rights to use and enjoyment of a property.
- **PROOF OF OWNERSHIP / HOLDERS RIGHT:** Depending on the underlying structure, the holder will have a club certificate, share certificate or title deed and use agreement.
- **NATURE OF PROPERTY:** Includes erven (township register), farms and agricultural holdings (land register) and sectional title (sectional title register).
- **HOW THE RIGHTS ARE TRANSFERRED:** This will depend on the structure of the scheme.
- **MORTGAGE?** Only if based on sectional title, the rights can be mortgaged.

07

FRACTIONAL OWNERSHIP



- **NATURE OF RIGHT:** Similar to time share, a company or CC owns the property.
- **PROOF OF OWNERSHIP / HOLDER'S RIGHT:** Depending on the underlying structure, the holder will have a club certificate, share certificate or title deed and use agreement.
- **NATURE OF PROPERTY:** Includes erven (township register), farms and agricultural holdings (land register) and sectional title (sectional title register).
- **HOW THE RIGHTS ARE TRANSFERRED:** This will depend on the structure of the scheme.
- **MORTGAGE?** Only if based on sectional title, the rights can be mortgaged.

08

LIFE RIGHTS



- **NATURE OF RIGHT:** Can be ownership of an erf or unit in a sectional title scheme or a right of occupation (life right).
- **PROOF OF OWNERSHIP / HOLDER'S RIGHT:** The title deed is endorsed in terms of section 4C(1)(a) of the Housing Development Schemes for Retired Persons Act.
- **NATURE OF PROPERTY:** Includes Erven (Township Register) and Sectional Title (Sectional Title Register).
- **HOW THE RIGHTS ARE TRANSFERRED:** The owner sells the property by means of a formal deed of transfer OR sells the right to occupy in terms of the Housing Development Schemes for Retired Persons Act.
- **MORTGAGE?** Yes, if held by title deed. If a life right, it cannot be mortgaged and the Agreement between the holder and the owner must state as to whether the property is bonded or not.

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