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GOVERNMENT GAZETTE

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VAN DIE REPUBLIEK VAN SUID-AFRIKA

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24 DESEMBER

[No. 2592

GOVERNMENT NOTICE

DEPARTMENT OF COMMERCE

No. R. 3993 24 December 1969

The following Bill is published for general information.

Any representations in regard thereto may be addressed to the Secretary for Commerce, Private Bag 84, Pretoria, not later than 31 January 1970.

BILL

To provide for matters relating to contracts of sale of land under which the purchase price is paid in instalments; and to repeal section 72 of Act 29 of 1926.

*To be Introduced by the Minister of
Economic Affairs*

Be it enacted by the State President, the Senate and the House of Assembly of the Republic of South Africa, as follows:—

Definitions

1. In this Act and in any notice issued thereunder, unless the context otherwise requires—

(i) "buyer" or "seller" includes the person who, as the case may be, has acquired the claims of the buyer or seller by session or otherwise; (iii)

(ii) "contract" means a contract under which land is sold subject to the condition that the purchase price be paid in instalments, three or more of which are payable after conclusion of the contract, and the buyer is entitled to the transfer of the land to his name after the three or more instalments so payable have been paid; (ii)

(iii) "local authority" means an institution or body referred to in section 84 (vi) (f) of the Republic of South Africa Constitution Act, 1961 (Act 32 of 1961); (v)

(iv) "Minister" means the Minister of Economic Affairs; (iv)

(v) "mortgagee", in relation to a contract, a creditor of the seller whose claim against the seller is secured by virtue of mortgage bond over the land purported to be sold under a contract; (vi)

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GOEWERMENSKENNISGEWING

DEPARTEMENT VAN HANDEL

No. R. 3993 24 Desember 1969

Die volgende Wetsontwerp word vir algemene inligting gepubliseer.

Enige vertoë in verband daarmee moet nie later nie as 31 Januarie 1970 aan die Sekretaris van Handel, Privaatsak 84, Pretoria, gerig word.

WETSONTWERP

Om voorsiening te maak vir aangeleenthede met betrekking tot koopkontrakte van grond ingevolge waarvan die koopprys in paaie mente betaal word; en om artikel 72 van Wet 29 van 1926 te herroep.

*Ingedien te word deur die Minister van
Ekonomiese Sake*

Daar word bepaal deur die Staatspresident, die Senaat en die Volksraad van die Republiek van Suid-Afrika, soos volg:—

Woordomskeywing

1. In hierdie Wet en in enige kennisgewing daarkragtens uitgereik, tensy uit die samehang anders blyk, beteken—

(i) "dorp" 'n dorp soos omskryf in artikel 102 van die Registrasie van Aktes Wet, 1937 (Wet 47 van 1937); (vi)

(ii) "kontrak" 'n kontrak waarby grond verkoop word op voorwaarde dat die koopprys in paaie mente betaal word, waarvan drie of meer betaalbaar is nadat die kontrak gesluit is, en die koper geregtig is op oordrag van die grond op sy naam nadat drie of meer aldus betaalbare paaie mente betaal is; (ii)

(iii) "koper" of "verkoper" ook die persoon wat, na gelang van die geval, die vorderingsregte van die koper of verkoper deur sessie of andersins verkry het; (i)

(iv) "Minister" die Minister van Ekonomiese Sake; (iv)

(v) "plaaslike bestuur" 'n instelling of liggaam in artikel 84 (vi) (f) van die Grondwet van die Republiek van Suid-Afrika, 1961 (Wet 32 van 1961), bedoel; (iii)

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(vi) "township" means a township as defined in section 102 of the Deeds Registries Act, 1937 (Act 47 of 1937). (i)

Powers of the Minister

2. (1) The Minister may by notice in the *Gazette*—

(a) exempt any class or kind of contract, on account of the location or the size of the land which is sold under a contract, or the amount of the purchase price of such land, or the capacity of the buyer or seller, from any of or all the provisions of this Act;

(b) prescribe the particulars to be furnished in a contract in regard to land sold under a contract as well as in regard to the parties to the contract; and

(c) from time to time fix the maximum rate of interest which may be stipulated or demanded or received under a contract.

(2) In exercising the powers conferred on him by subsection (1) the Minister may make different provisions in respect of different classes or kinds of contracts or in respect of different classes or kinds of buyers or sellers;

(3) A notice issued under subsection (1) (b) or (c) shall come into operation on a date fixed in such notice, which shall not be earlier than three months from the date of the publication of the notice.

What a contract shall contain

3. Subject to the provisions of the Formalities in respect of Contracts of Sale of Land Act, 1969 (Act 71 of 1969), a contract shall be drawn up in the official language chosen by the buyer and shall contain a statement of—

(a) the particulars (if any) prescribed in a notice under section 2 (1) (b);

(b) the purchase price due by the buyer to the seller in terms of the contract;

(c) the rate of interest (if any) to be paid by the buyer;

(d) the period within which full settlement shall be effected;

(e) the portion of the purchase price of the land payable by the buyer before he may take possession of the land;

(f) the amount of each instalment payable under the contract in respect of the balance of the purchase price and interest (if any), and the date, or the manner of determining the date upon which each such instalment is payable;

(g) the place where instalments due by the buyer shall be paid;

(h) the servitudes, encumbrances, restrictions and obligations as well as to outstanding amounts due by the seller in terms of mortgage bonds (if any) which are registered against the land or of which the seller is aware;

(i) the date upon which the buyer shall or may take possession of the land;

(j) the moneys, rates and taxes or levies payable at the time of conclusion of the contract in respect of the land to local authorities, and in connection with insurance in respect of improvements on the land; and

(vi) "verbandhouer", met betrekking tot 'n kontrak, 'n skuldeiser van die verkoper wie se vorderingsreg teen die verkoper uit hoofde van 'n verband op die grond wat ingevolge 'n kontrak heet verkoop te word, gesekeureer is. (v)

Bevoegdheid van die Minister

2. (1) Die Minister kan by kennisgewing in die *Staatskoerant*—

(a) enige klas of soort kontrak, vanweë die ligging of die grootte van die grond wat ingevolge 'n kontrak verkoop word, of die bedrag van die koopprys van sodanige grond, of die hoedanigheid van die koper of verkoper, van enigen van of al die bepalings van hierdie Wet vrystel;

(b) die besonderhede voorskryf wat in 'n kontrak vermeld moet word betreffende grond wat ingevolge 'n kontrak verkoop word, asook betreffende die partye by die kontrak; en

(c) van tyd tot tyd die maksimum rentekoers bepaal wat ingevolge 'n kontrak beding, geëis of ontvang mag word.

(2) Die Minister kan, by die uitoefening van die bevoegdheid wat by subartikel (1) aan hom verleen is, verskillende bepalings uitvaardig ten opsigte van verskillende klasse of soorte kontrakte of ten opsigte van verskillende klasse of soorte kopers of verkopers.

(3) 'n Kennisgewing wat kragtens subartikel (1) (b) of (c) uitgereik is, tree in werking op 'n datum wat in die kennisgewing vasgestel word en wat nie vroeër mag wees as drie maande vanaf die datum van afkondiging van die kennisgewing nie.

Wat 'n kontrak moet bevat

3. Behoudens die bepalings van die Wet op Formaliteite met betrekking tot Koopkontrakte van Grond, 1969 (Wet 71 van 1969), word 'n kontrak opgestel in die amptelike taal wat die koper kies en bevat die kontrak 'n opgawe van—

(a) die besonderhede (as daar is) wat in 'n kennisgewing kragtens artikel 2 (1) (b) voorgeskryf word;

(b) die koopprys wat die koper aan die verkoper ingevolge die kontrak verskuldig is;

(c) die rentekoers (as daar is) wat die koper moet betaal;

(d) die termyn waarin volle afbetaling moet geskied;

(e) die gedeelte van die koopprys van die grond wat deur die koper betaalbaar is voordat hy van die grond besit kan neem;

(f) die bedrag van elke paalement wat volgens die kontrak ten opsigte van die saldo van die koopprys en rente (as daar is) betaalbaar is, en die datum, of die wyse van vasstelling van die datum, waarop elke sodanige paalement betaalbaar is;

(g) die plek waar die paalemente deur die koper verskuldig, betaal moet word;

(h) die serwitute, beswarings, beperkings en verpligtings asook die uitstaande bedrae deur die verkoper verskuldig ingevolge verbande (as daar is) wat teen die grond geregistreer is of waarvan die verkoper bewus is;

(i) die datum waarop die koper besit van die grond moet of kan neem;

(j) die gelde, belastinge of heffings wat, ten tyde van die aangaan van die kontrak, ten opsigte van die grond aan plaaslike besture, en met betrekking tot assuransië ten opsigte van verbeterings op die grond, betaalbaar is; en

(k) the obligations of the parties to the contract in respect of the maintenance of the land and any improvements thereon.

Copy of the contract to be supplied to buyer

4. (1) The seller shall within one month of the conclusion of a contract send a copy thereof free of charge by registered post to the buyer and shall in terms of the provisions of the Post Office Regulations obtain proof of delivery thereof.

(2) When the provisions of subsection (1) are not complied with the contract shall be voidable at the option of the buyer until a copy of the contract has been delivered to the buyer in accordance with the provisions of the said subsection.

Prohibition of the conclusion of more than one contract in respect of the same land and the demanding of moneys in the case of contracts in respect of land in proposed townships

5. (1) Any contract purported to have been concluded in respect of land which has already been sold under a contract shall for all purposes be deemed to have been void *ab initio*.

(2) In the case of a contract in respect of land in a proposed township, no moneys or payment of whatever nature shall be demanded from a buyer before the township has been lawfully proclaimed.

(3) Any payment under a contract in respect of land in a proposed township shall be a payment which is not due and may, at any time within three years after such payment has been made, be recovered from the person to whom it was made unless the township in question as then already been proclaimed.

(4) A receipt issued by or on behalf of a seller in respect of a payment under a contract relating to land referred to in subsection (3) shall be sufficient proof of such payment.

Rights of parties having an interest in a contract

6. (1) No land shall be sold by contract without the prior written consent of a mortgagee.

(2) No contract shall be concluded when the purchase price under the contract is less than the balance of the claim owing by the seller to the mortgagee in terms of the mortgage bond unless the seller has to the satisfaction of the mortgagee guaranteed payment of the amount by which the claim exceeds the purchase price.

(3) The mortgagee shall not refuse consent in terms of subsection (1) when his claim against the seller is less than the purchase price under the contract and, in case the purchase price is less than the outstanding balance of the claim against the seller under the mortgage bond, when the seller has furnished the guarantee referred to in subsection (2).

(4) Save when he is compelled thereto by law, the seller shall not without the prior written consent of the buyer increase the preferent claims in respect of land sold.

(5) Unless the mortgagee and the seller have beforehand come to some other arrangement in writing, the seller shall pay the portion of the purchase price of the land payable by the buyer before he takes possession of the land and the instalments paid by the buyer to the mortgagee to be applied in reduction of the indebtedness of the seller to the mortgagee.

(k) die verpligtings van die partye by die kontrak ten opsigte van die instandhouding van die grond en enige verbeterings daarop.

Afskrif van die kontrak moet aan koper verstrekkend word

4. (1) Die verkoper moet binne een maand na die totstandkoming van 'n kontrak aan die koper 'n gratis afskrif daarvan per geregistreerde pos stuur en moet, ooreenkomstig die voorskrifte van die Poskantoorregulasies, 'n bewys van aflewering daarvan verkry.

(2) Wanneer die bepalings van subartikel (1) nie nagekom is nie, is die kontrak, na keuse van die koper, vernietigbaar totdat 'n afskrif van die kontrak ooreenkomstig die bepalings van genoemde subartikel aan die koper bestel is.

Verbod op die aangaan van meer as een kontrak ten opsigte van dieselfde grond en vordering van gelde in die geval van kontrakte ten opsigte van grond in te stigte dorpe

5. (1) Enige kontrak wat heet aangegaan te gewees het ten opsigte van grond wat reeds ingevolge 'n kontrak verkoop is, word vir alle doeleindes geag van die begin af ongeldig te gewees het.

(2) In die geval van 'n kontrak ten opsigte van grond in 'n te stigte dorp, word geen gelde of betaling van watter aard ook al van 'n koper gevorder nie voordat dié dorp volgens wet geproklameer is.

(3) Enige betaling ingevolge 'n kontrak met betrekking tot grond in 'n te stigte dorp is 'n onverskuldigde betaling en kan te eniger tyd binne drie jaar nadat so 'n betaling gedoen is, van die persoon aan wie dit gedoen is, teruggevorder word tensy die betrokke dorp dan reeds geproklameer is.

(4) 'n Kwitansie deur of namens 'n verkoper uitgereik ten opsigte van 'n betaling ingevolge 'n kontrak met betrekking tot grond in subartikel (3) bedoel, is voldoende bewys van sodanige betaling.

Regte van belanghebbendes by 'n kontrak

6. (1) Geen grond mag, sonder die voorafgaande skriftelike toestemming van 'n verbandhouer ingevolge 'n kontrak verkoop word nie.

(2) Geen kontrak mag aangegaan word wanneer die koopprys ingevolge die kontrak minder is as die saldo van die vordering wat die verkoper aan die verbandhouer uit hoofde van die verband verskuldig is nie, tensy die verkoper tot tevredenheid van die verbandhouer betaling van die bedrag waarmee die vordering die koopprys oorskry, gewaarborg het.

(3) Die verbandhouer mag nie toestemming kragtens subartikel (1) weier nie wanneer sy vordering teen die verkoper minder is as die koopprys ingevolge die kontrak en wanneer die verkoper die waarborg in subartikel (2) bedoel verskaf het ingeval die koopprys minder is as die uitstaande saldo van die vordering teen die verkoper kragtens die verband.

(4) Uitgesonderd waar hy by wet daartoe verplig word, mag die verkoper nie sonder voorafgaande skriftelike toestemming van die koper die preferente vorderingsregte ten opsigte van verkoopte grond verhoog nie.

(5) Tensy die verbandhouer en die verkoper vooraf skriftelik tot 'n ander reëling geraak het, betaal die verkoper die gedeelte van die koopprys van die grond wat deur die koper betaalbaar is voordat hy besit van die grond neem en die paaiemente wat deur die koper betaal word, aan die verbandhouer oor om in mindering van die skuld van die verkoper aan die verbandhouer aangewend te word.

(6) Without the prior written consent of the buyer, no amount paid by him in respect of an instalment which is owing shall be applied in any manner other than in reduction or redemption of that instalment.

(7) The mortgagee and the seller shall not come to an arrangement in respect of amounts paid by the buyer under a contract, which has the effect that the amount of the claim against the seller which is secured by the mortgage bond exceeds the amount due by the buyer to the seller under the contract.

Calculation of interest on the purchase price due under a contract

7. When interest is stipulated for under a contract, it shall not be calculated more often than monthly at an annual rate on the outstanding balance of the purchase price under the contract.

Period of contracts

8. (1) The period within which the purchase price under a contract with interest must be paid in full shall not exceed thirty years.

(2) The balance of the purchase price under a contract with interest (if any) shall be paid over the stipulated period of the contract stipulated for in equal instalments at intervals not exceeding one year.

(3) Save where the seller with the consent of the buyer, undertakes, at the time of the conclusion of the contract, to transfer to the buyer the land sold on condition that, simultaneously with the registration of the transfer, there shall be registered in favour of the seller a first mortgage bond over the land, or that the buyer furnishes a lesser guarantee to the satisfaction of the seller to secure payment of the balance of the purchase price plus interest (if any) up to the date of registration of the transfer and further interest as well as all costs involved in the transfer and mortgage (if the buyer so desires), no condition shall be added to the contract in terms of which the buyer shall be compelled to take transfer of the land before the expiry of the period stipulated for under the contract.

Invalidity of certain provisions

9. Save in so far as this Act contains provisions to the contrary any provisions in any contract whereby—

(a) any person acting on behalf of the seller in connection with the conclusion of any contract or the negotiations preceding the conclusion of the contract, is appointed or deemed to be appointed the agent of the buyer; or

(b) the seller is relieved of liability for any act, omission or representation of any person acting on his behalf in the said connection; or

(c) the buyer forfeits any payment in respect of the purchase price under the contract or a claim in respect of any improvement effected by him on the land, or incurs some other obligation, if he fails to fulfil an obligation under the contract; or

(d) the liability of the seller in terms of any guarantee or warranty which would, but for such provision, be implied in any contract, is excluded or restricted; or

(e) the seller, if the buyer fails to fulfil an obligation under the contract, shall be entitled to accelerated payment of an instalment of the purchase price of the land before the buyer has received transfer thereof; or

(6) Sonder die voorafgaande skriftelike toestemming van die koper word geen bedrag wat hy ten opsigte van 'n verskuldigde paalement betaal, op 'n ander wyse as in mindering of ter delging van daardie paalement aangewend nie.

(7) Die verbandhouer en die verkoper geraak nie tot 'n reëling ten opsigte van bedrae wat die koper ingevolge 'n kontrak betaal wat die uitwerking het dat die bedrag van die vordering teen die verkoper wat deur die verband gesekureer word, meer beloop as die bedrag wat die koper aan die verkoper ingevolge die kontrak verskuldig is nie.

Berekening van rente op die koopprys ingevolge 'n kontrak verskuldig

7. Wanneer rente ingevolge 'n kontrak beding word, word dit nie meer dikwels as maandeliks teen 'n jaarlikse koers op die uitstaande saldo van die koopprys ingevolge die kontrak, bereken nie.

Termyn van kontrakte

8. (1) Die termyn waarin die koopprys ingevolge 'n kontrak tesame met rente ten volle afbetaal moet word, oorskry nie 30 jaar nie.

(2) Die saldo van die koopprys ingevolge 'n kontrak tesame met rente (as daar is) word in gelyke paalemente met tussenpose van nie meer nie as een jaar oor die kontraktermyn wat beding word, afbetaal.

(3) Behalwe waar die verkoper, met instemming van die koper, ten tye van die sluiting van die kontrak onderneem om oordrag van die verkoopte grond aan die koper te gee op voorwaarde dat, gelyktydig met registrasie van die transport, 'n eerste verband ten gunste van die verkoper teen die grond geregistreer word, of dat die koper 'n mindere waarborg tot tevredenheid van die verkoper stel ter sekurering van die betaling van die saldo van die koopprys plus rente (as daar is) tot die dag van registrasie van die transport en verdere rente asook alle koste in verband met die transport en die verband (as die koper dit verlang), word geen beding aan 'n kontrak toegevoeg waarvolgens die koper verplig is om transport van die grond te neem voordat die termyn wat ingevolge die kontrak beding was, verstryk het nie.

Ongeldigheid van sekere bepalings

9. Behalwe vir sover as wat in hierdie Wet anders bepaal word, is enige bepaling in 'n kontrak waardeur—

(a) iemand wat namens die verkoper optree in verband met die sluiting van 'n kontrak of die onderhandelings wat die sluiting van die kontrak voorafgaan, aangestel word of geag word aangestel te wees as gevolmagtigde van die koper; of

(b) die verkoper onthef word van aanspreeklikheid vir die doen en late van, of enige voorstelling deur iemand wat in bedoelde verband namens hom optree; of

(c) die koper enige betaling ten opsigte van die koopprys ingevolge die kontrak, of enige vordering ten opsigte van enige verbetering wat hy op die grond aangebring het, verbeur of 'n ander verpligting oploop as hy versuim om 'n verpligting ingevolge die kontrak na te kom; of

(d) die aanspreeklikheid van die verkoper ingevolge enige garansie of waarborg wat, as daardie bepaling nie daar was nie, 'n versweë beding van die kontrak sou wees, uitgesluit of beperk word; of

(e) die verkoper, as die koper versuim om 'n verpligting ingevolge die kontrak na te kom, geregtig is op vervroegde betaling van 'n paalement van die koopprys van die grond voordat die koper transport daarvan ontvang het; of

(f) the buyer shall be liable for fees calculated by the seller in connection with the termination of the contract or for the collection of any amount paid by him on behalf of the buyer in connection with the land; or

(g) the buyer shall be compelled to pay any amount or perform any act if he fails to take transfer; or

(h) the seller or his agent shall arrange on behalf of the buyer a mortgage over the land sold;

shall be null and void.

Statements of account

10. (1) During the validity of a contract, the seller shall at least once per annum furnish the buyer free of charge with a statement of account showing the purchase price of the land under the contract and the amounts already paid in respect of capital and interest, separately.

(2) If the seller is responsible under the contract for the payment of moneys, rates and taxes or levies in respect of the land sold, he shall when furnishing the statement of account referred to in subsection (1) submit to the buyer evidence of the payment of the said moneys, rates and taxes or levies.

(3) On the written request of the buyer, the seller shall, at any time during the period of the contract, furnish the buyer or the person mentioned in the said request with the particulars or evidence referred to in subsections (1) and (2).

Cession or hypothecation of and authority to collect periodical income null and void

11. (1) A cession or hypothecation of any amount payable periodically under a service contract or towards the maintenance of any person to secure any payment under a contract, shall be null and void.

(2) An authority to receive or collect a periodically payable amount referred to in subsection (1) or portion of such amount to secure any payment under a contract, shall at all times be revocable.

Right of the buyer to accelerate payments and terminate the contract

12. The buyer shall at all times be entitled—

(a) to pay any instalment of the purchase price under a contract before it is due or to make larger payments than those for which the contract provides; and

(b) when he has paid the whole outstanding balance of the purchase price or has furnished a guarantee for payment of the purchase price plus interest (if any) up to the date of transfer, to demand that the land sold be transferred to him.

Latent defects

13. After six months after the date of the conclusion of a contract, no action shall be founded on the ground of defects which, at the time of the conclusion of the contract, are alleged to have been latent.

Cession by the buyer of claims under a contract

14. (1) With the consent of the seller, the buyer may cede his claim against the seller to demand transfer of the land.

(2) Notwithstanding provisions to the contrary in any other Act, land sold under a contract shall be transferred direct from the seller to the cessionary referred to in subsection (1).

(f) die koper aanspreeklik is vir gelde wat deur die verkoper bereken word in verband met die ontbinding van die kontrak of vir die insameling van enige bedrag wat hy ten behoeve van die koper in verband met die grond betaal het; of

(g) die koper tot betaling van enige bedrag of die verrigting van enige handeling verplig is as hy versuim om transport te neem; of

(h) die verkoper of sy agent namens die koper 'n verband op die verkoopte grond sal reël;

van nul en gener waarde.

Rekeningstate

10. (1) Terwyl 'n kontrak van krag is, moet die verkoper minstens een maal per jaar 'n gratis rekeningstaat aan die koper verskaf waarin aangedui word wat die koopprys van die grond ingevolge die kontrak is en watter bedrae reeds ten opsigte van kapitaal en rente afsonderlik afbetaal is.

(2) Indien die verkoper ingevolge die kontrak verantwoordelik is vir die betaling van gelde, belastinge of heffings in verband met die verkoopte grond, moet hy gelyktydig met die verskaffing van die rekeningstaat in subartikel (1) bedoel bewys van betaling van bedoelde gelde, belastinge of heffings aan die koper voorlê.

(3) Op skriftelike versoek van die koper, verstrekk die verkoper te eniger tyd gedurende die duur van die kontrak, aan die koper of aan iemand in bedoelde versoek genoem, die besonderhede of bewys in subartikels (1) en (2) bedoel.

Sessie of verhipotekering en magtiging tot insameling van periodieke inkomste is van nul en gener waarde

11. (1) 'n Sessie of verhipotekering van 'n bedrag wat periodiek kragtens 'n dienskontrak of tot onderhoud van enige persoon betaalbaar is ter sekurering van enige betaling ingevolge 'n kontrak, is van nul en gener waarde.

(2) 'n Magtiging tot ontvangs of insameling van 'n periodiek betaalbare bedrag in subartikel (1) bedoel of 'n gedeelte van sodanige bedrag ter sekurering van enige betaling ingevolge 'n kontrak, is te alle tye herroeplik.

Reg van die koper om betalings te vervroeg en die kontrak te beëindig

12. Die koper is te alle tye geregtig om—

(a) enige paalement van die koopprys ingevolge 'n kontrak voor die vervaldag, of groter paalemente as dié waarvoor die kontrak voorsiening maak, te betaal; en

(b) wanneer hy die hele uitstaande saldo van die koopprys betaal het of 'n waarborg vir betaling van die koopprys plus rente (as daar is) tot die datum van transport verskaf het, te eis dat die verkoopte grond aan hom getranspoteer word.

Verborge gebreke

13. Geen aksie op grond van gebreke wat tydens die aangaan van 'n kontrak na bewering verborge sou gewees het, word na ses maande vanaf die datum waarop die kontrak gesluit is, ingestel nie.

Sessie deur die koper van vorderingsregte ingevolge 'n kontrak

14. (1) Met die toestemming van die verkoper kan die koper sy reg teen die verkoper om transport van die grond te eis, sedgeer.

(2) Ondanks andersluidende bepalings in enige ander Wet, word grond wat ingevolge 'n kontrak verkoop word, regstreeks vanaf die verkoper na die sessionaris in subartikel (1) bedoel, getranspoteer.

(3) No intermediate cession of the claim of the buyer to demand transfer of the land to him under a contract shall be valid unless the applicable transfer duties in respect of the consideration against which such cession took place have been paid.

(4) The successors in title of the buyer or the executor in his estate may dispose of the buyer's claims under a contract as in the case of any other asset in his estate.

Cession by the seller of claims under a contract in respect of encumbered land

15. (1) A seller shall only cede to the mortgagee his claims under a contract in respect of land encumbered by mortgage.

(2) When a seller cedes him claims as referred to in subsection (1), such cession shall be deemed to be a power of attorney to the cessionary to transfer the land to the buyer.

(3) A mortgagee to whom claims under a contract have been ceded, shall immediately inform the buyer of such cession.

Limitation of the right of a seller to take action

16. (1) No seller shall on account of any failure on the part of a buyer to fulfil an obligation under a contract, be entitled to terminate the contract or institute action for damages, unless he has demanded in writing that the buyer fulfil the obligation concerned within a period mentioned in the demand, which, if the buyer has paid—

(a) ten per cent or less of the purchase price, shall be not less than one month; or

(b) more than 10 per cent but not more than 20 per cent of the purchase price, shall be not less than two months; or

(c) more than 20 per cent but not more than 30 per cent of the purchase price, shall not be less than three months; or

(d) more than 30 per cent but not more than 40 per cent of the purchase price, shall be not less than four months; or

(e) more than 40 per cent but not more than 50 per cent of the purchase price, shall not be less than five months; or

(f) more than 50 per cent of the purchase price, shall be not less than six months, and the buyer has failed to comply with the demand.

(2) No contract shall be terminated by the seller after a demand referred to in subsection (1) unless a competent court is satisfied that the conditions of the termination of the contract are equitable to all parties concerned in the contract or having an interest therein.

Choice of domicilium citandi et executandi

17. The parties to a contract shall choose in the contract *domicilium citandi et executandi* which, in the case of the buyer, shall not be the address of the seller or his agent, and notice of any charge therein shall be given to the other party by registered post and proof of the delivery of such notice shall be obtained in accordance with the Post Office Regulations.

(3) Geen intermediêre sessie van die reg van 'n koper om transport van die grond aan hom ingevolge 'n kontrak te eis, is geldig nie tensy die toepaslike hereregte ten opsigte van die vergoeding waarteen sodanige sessie plaasgevind het, betaal is.

(4) Die regsopvolgers van die koper of die eksekuteur van sy boedel beskik oor die koper se vorderingsregte ingevolge 'n kontrak soos oor enige ander bate in sy boedel.

Sessie deur die verkoper van vorderingsregte ingevolge 'n kontrak met betrekking tot grond wat beswaar is

15. (1) 'n Verkoper sedgeer slegs aan die verbandhouer sy vorderingsregte ingevolge 'n kontrak met betrekking tot grond wat met verband beswaar is.

(2) Wanneer 'n verkoper sy vorderingsregte sedgeer soos in subartikel (1) bedoel, word dié sessie geag 'n volmag aan die sessionaris te wees om die grond aan die koper te transporteer.

(3) 'n Verbandhouer aan wie vorderingsregte ingevolge 'n kontrak gesedgeer is, stel die koper dadelik van sodanige sessie in kennis.

Beperking van die verkoper se reg om stappe te doen

16. (1) Geen verkoper is, weens 'n versuim van die kant van 'n koper om 'n verpligting ingevolge 'n kontrak na te kom, geregtig om die kontrak te beëindig of om 'n aksie om skadevergoeding in te stel nie, tensy hy skriftelik van die koper geëis het dat hy die betrokke verpligting moet nakom binne 'n tydperk in die eis vermeld wat, indien die koper—

(a) tien persent of minder van die koopprys betaal het, nie minder as een maand; of

(b) meer as 10 persent maar hoogstens 20 persent van die koopprys betaal het, nie minder as twee maande; of

(c) meer as 20 persent maar hoogstens 30 persent van die koopprys betaal het, nie minder as drie maande; of

(d) meer as 30 persent maar hoogstens 40 persent van die koopprys betaal het, nie minder as vier maande; of

(e) meer as 40 persent maar hoogstens 50 persent van die koopprys betaal het, nie minder as vyf maande; of

(f) meer as 50 persent van die koopprys betaal het, nie minder as ses maande, is nie, en die koper versuim het om aan die eis te voldoen.

(2) Geen kontrak word deur die verkoper beëindig na 'n eis soos in subartikel (1) bedoel nie tensy 'n bevoegde hof daarvan oortuig is dat die voorwaardes van beëindiging van die kontrak billik teenoor al die partye is wat by die kontrak betrokke is of 'n belang daarby het.

Keuse van domicilium citandi et executandi

17. Die partye by 'n kontrak kies in die kontrak *domicilium citandi et executandi* wat, in die geval van die koper, nie die adres van die verkoper of sy agent is nie, en kennis van enige verandering daarvan word per geregistreerde pos aan die ander party gegee en, ooreenkomstig die Poskantoorregulasies, word bewys van aflewering van sodanige kennisgewing verkry.

Jurisdiction

18. Unless the parties to a contract agree in writing after the commencement of an action that some other court shall have jurisdiction in the action concerned, only the court within whose area of jurisdiction the land is situated to which the contract relates shall have jurisdiction in any civil matter relating to or arising out of the contract.

Orders of execution relating to land in respect of which a contract is in force

19. Save when a final order of sequestration of the estate of a seller is made and subject to the provisions of section 20, no order of attachment of land in respect of which a contract is in force shall be made to satisfy the judgment debt of the seller.

Insolvency of a seller

20. (1) Subject to the rules of law in terms of which certain juristic acts which an insolvent entered into before the sequestration of his estate may be rescinded by a court, the trustee or liquidator of the seller's insolvent estate shall be obliged to transfer land in respect of which a contract is in force to the buyer provided of which a contract is in force to the buyer provided the buyer, after having been called upon by the trustee or liquidator to take transfer, has within six months guaranteed the payment of the outstanding balance of the purchase price and interest under the contract up to the date of transfer.

(2) Should the buyer fail to take transfer after having been called upon by virtue of subsection (1) to do so, he may prove a claim against the insolvent estate of the seller for the instalments which he paid against the purchase price under the contract, for the cost of necessary and useful improvements effected by him on the land while he was in possession thereof and for the damage sustained by him as a result of eviction.

(3) The provisions of this section shall not prejudice the right of the trustee or liquidator of the insolvent's estate to surrender the land concerned, with due regard to the rights of the buyer, if it is encumbered to the mortgagee for the value which the mortgagee put thereon.

Rights of a buyer who has paid part of the purchase price under a contract and repeal of section 72 of Act 29 of 1926

21. (1) A buyer who has paid to the seller not less than 50 per cent of the purchase price owing by him under the contract, shall be entitled to demand transfer of the land from the seller on condition that, simultaneously with the registration of the transfer, there shall be registered in favour of the seller a first mortgage bond over the land to secure payment of the balance of the purchase price and interest in terms of the contract.

(2) If the seller is unable, fails or refuses to give such transfer within three months of receiving such demand the buyer may withdraw from the contract and may recover from the seller the instalments paid by him under the contract as well as any damage sustained by him as a result of the cancellation of the contract.

(3) Section 72 of the Insolvency Act, 1916, Amendment Act, 1926 (Act 29 of 1926), is hereby repealed.

Waiver of rights

22. The waiver by a buyer or seller of any right under this Act, shall be null and void.

Jurisdiksie

18. Tensy die partye by 'n kontrak na die ontstaan van 'n geding skriftelik toestem dat 'n ander hof jurisdiksie in verband met die betrokke geding sal hê, het slegs die hof binne wie se regsgebied die grond geleë is waarop die kontrak betrekking het, regsbevoegdheid in enige siviele aangeleentheid wat met 'n kontrak in verband staan of daaruit voortspuit.

Bevele tot eksekusie met betrekking tot grond ten opsigte waarvan 'n kontrak van krag is

19. Behalwe wanneer 'n finale bevel tot sekwestrasie van die boedel van 'n verkoper verleë is, en behoudens die bepalinge van artikel 20, word geen bevel tot beslaglegging op grond ten opsigte waarvan 'n kontrak van krag is, gegee om aan 'n vonnisskuld van die verkoper te voldoen nie.

Insolvensie van 'n verkoper

20. (1) Onderworpe aan die regseëls waarvolgens sekere regshandeling wat 'n insolvent voor sekwestrasie van sy boedel aangegaan het, deur 'n hof nietig verklaar kan word, is die kurator of likwidateur van die verkoper se insolvente boedel verplig om grond ten opsigte waarvan 'n kontrak van krag is, aan die koper te transporteer mits die koper, nadat hy deur die kurator of likwidateur aangesê is om die transport te neem, binne ses maande die betaling van die uitstaande saldo van die koopprys en rente ingevolge die kontrak tot die datum van transport gewaarborg het.

(2) Versuim die koper om transport te neem nadat hy uit hoofde van subartikel (1) daartoe aangesê was, kan hy 'n eis teen die insolvente boedel van die verkoper bewys vir die paaielemente wat hy teen die koopprys ingevolge die kontrak afbetaal het, vir die koste van noodsaaklike en nuttige verbeterings wat hy op die grond aangebring het terwyl hy in besit daarvan was, en vir die skade wat hy as gevolg van eviksie mag ly.

(3) Die bepalinge van hierdie artikel doen nie afbreuk aan die reg van die kurator of likwidateur van die insolvent se boedel om die betrokke grond, as dit beswaar is, aan die verbandhouer, met inagneming van die regte van die koper, af te staan teen die waarde wat die verbandhouer daarop geplaas het nie.

Regte van 'n koper wat deel van die koopprys ingevolge 'n kontrak betaal het en herroeping van artikel 72 van Wet 29 van 1926

21. (1) 'n Koper wat nie minder as 50 persent van die koopprys wat hy ingevolge die kontrak verskuldig is, aan die verkoper betaal het, is geregtig om van die verkoper transport van die grond te eis op voorwaarde dat, gelyktydig met die registrasie van die transport, 'n eerste verband ten gunste van die verkoper teen die grond geregistreer word om betaling van die saldo van die koopprys en rente ingevolge die kontrak te sekureer.

(2) Indien die verkoper nie in staat is nie of versuim of weier om sodanige transport te gee binne drie maande na hy so 'n eis ontvang het, kan die koper uit die kontrak terugtree en kan hy die paaielemente wat hy ingevolge die kontrak betaal het, asook enige skade wat hy as gevolg van die kansellasië van die kontrak gely het, op die verkoper verhaal.

(3) Artikel 72 van die Insolventie Wet, 1916, Wijzigingswet, 1926 (Wet 29 van 1926), word hierby herroep.

Afstand van regte

22. Die afstand deur 'n koper of verkoper van enige reg kragtens hierdie Wet, is van nul en gener waarde.

Application of the Act to existing contracts

23. The provisions of this Act, with the exception of the provisions of sections 3 to 8, inclusive, shall apply to every contract concluded before, and still in force at the commencement of this Act.

Application in South-West Africa.

24. This Act and any amendment thereof shall apply also in the Territory of South-West Africa.

Short title and date of commencement

25. This Act shall be called the Sale of Land on Instalments Act, 1970, and shall come into operation on a date to be fixed by the State President by Proclamation in the *Gazette*.

Toepassing van die Wet op bestaande kontrakte

23. Die bepalinge van hierdie Wet is, met uitsondering van die bepalinge van artikels 3 tot en met 8, van toepassing op elke kontrak wat voor die inwerkingtreding daarvan aangegaan was en nog by die inwerkingtreding daarvan van krag is.

Toepassing op Suidwes-Afrika

24. Hierdie Wet en enige wysiging daarvan is ook van toepassing in die gebied Suidwes-Afrika.

Kort titel en datum van inwerkingtreding

25. Hierdie Wet heet die Wet op Verkoop van Grond op Afbetaling, 1970, en tree in werking op 'n datum wat deur die Staatspresident by proklamasie in die *Staatskoerant* vasgestel word.

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