



It has been a trend these days, in Tanzania, that people run off to buy apartments and live in them. It is so “fashionable” that the developers are sure of selling of the apartments before they even erect a building, if it is in a prime location that is. However, most sellers think that they have sold their “rights” to the building and some buyers think that they now “own” the apartments they just bought, but what they don’t know is that, they actually don’t!

The Unit Titles Act, Act no 16 of 2008 is the law governing building developments where multiple owners hold a type of property ownership known as a unit title. The Act covers how unit title developments are created and managed and, importantly, the rights of unit owners and how they can exercise those rights. You see the Act aims to ensure the diverse and complex range of unit title developments are able to be managed more effectively. This combination of individual and shared ownership of land and buildings, often in an intensive built environment, means owning a unit title involves a different set of rights and responsibilities than traditional house and land ownership.

In addition, unit title developments have an Association which is a body corporate that is there to ensure decisions affecting the development can be made jointly by the unit owners. This can be challenging at first for anyone who is not used to communal ownership. As an owner of a unit in a unit title development you have two capacities: one as owner of your unit and another as a member of the body corporate for the unit development.

What is interesting to note, and perhaps the basis of this article is that, buying and selling a unit in a unit title development is different to buying a traditional house and land because (1) there are additional rights and responsibilities to consider when you own a unit title (2) there are often more people involved both the other owners in the development and the body corporate as a whole (3) there are ongoing financial commitments that are different to those associated with traditional home ownership. This confuses a lot of people/buyers and sellers as well due to the Act that the processes being so new to many.

Well you see a unit owner’s main unit is known as a principal unit. Some examples of a principal unit include an apartment, a set of offices or a retail store, depending on the type of development. Accessory units in the development are designed to be used with a principal unit, and may be owned only by owners of principal units. And then there is what we call a Common property which includes parts of the unit title development that are not contained in a principal unit. Some examples of common property include access ways (such as lifts and shared driveways) gardens, garages and shared facilities (such as a mailbox area or swimming pool). Common property is owned by the body corporate on behalf of the unit owners and it is the function of the Association as per S.40(a) of the Unit Titles Act to manage the Common area.



Developers often put new Units up for sale before their construction has been completed or even begun. You may be selecting your unit from a floor plan. Well mostly what happens is developers once they have followed the procedures and have gotten their Unit plan registered etc they would start offering the Units to prospective buyers. The buyers would sign an MOU or others a sale agreement and pay off the money. Once the building is finished if the payment is completed or upon completion they sign off and are given the keys to their new apartment. However, the predicament here is for some buyers and owners, they believe that once the sale agreement is signed a buyer technically owns the apartment and the buyer's parts with it, this is not true. The only way that ownership will pass from the seller, the holder of the main title to the buyer is for the subtitle to be given to the buyer. Upon subtitling the seller should provide a buyer with a title of which shall confirm passing of ownership. If a buyer for example hasn't done the subtitling nor has the subtitles he can do as he pleases with them, mortgage, sell etc? You could be living in apartment thinking that it is yours while it's not, or you could give an MOU to a buyer thinking the title has passed, be aware!

The author is a Partner with ABC ATTORNEYS of IT Plaza 8th Floor, Dar-es-Salaam, Tanzania and an Arbitrator with the Tanzania Institute of Arbitration and Young International Arbitrators (YIAG)-London. For more articles please visit www.abccattorneys.co.tz or email the author at info@abccattorneys.co.tz