

Protection skewed when it comes to property

Regardless of the economy and the rising interest rate, property remains one of the best ways for the average South African to accrue wealth.



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Bruce Swain, MD of Leapfrog Property Group explained: "There seems to be an assumption by the government that the buyer needs protection, but that the seller does not: the seller can't change his mind after signing. This is, of course, fallacious in that very often the buyer could be somebody with a lot of real estate experience, whereas the seller could be selling his first home." Even so, sellers - albeit at a very low price range of R250 000 - still have to content with a cooling-off clause that favours the buyer.

Landlords also face several challenges

This applies even more to landlords and tenants. The Consumer Protection Act (CPA) and the Rental Act both offer substantial protection to tenants, for example, Section 14 of the CPA enables a tenant (who is a private individual and not a corporation or trust) to cancel any fixed-term lease by giving 20 business days' notice in writing (and no longer a calendar month).

When entering into a contract with a tenant, a landlord hands over access to the property - something that is quite difficult to revoke. The tenant, however, could decide not to pay the lease, for example, so while not all landlords perform in terms of the agreement it is more often the tenant who defaults. Removing a tenant in breach of contract is also a time-consuming and costly exercise.

"Due to the fact that it is so difficult to deal with non-compliant tenants, many property owners are hesitant to become landlords, not caring for the risk of financial loss and legal costs," said Swain. "Our rental market could be in a healthier situation if this one-sidedness could be addressed in that landlords are given more protection against tenants who don't pay on time."

It all comes down to management

The best way for landlords to safeguard their investment is to ensure that they hire the right tenant and maintain a firm handle on what's happening on their property. Often this means working through a qualified, experienced rental agent who has access to resources that a private landlord likely doesn't.

Harry van der Linde, principal agent of Leapfrog Moreleta Park, believes that landlords are often at a disadvantage as they are less likely to have access to credit bureaux; high-risk tenants target landlords or private persons than estate agents. "Many landlords also do not have the time required for rental management, the resources such as TPN (a registered credit bureau) and the support network of contractors and attorneys," said Van der Linde. "Landlords can also be blinded by attractive offers, such as cash up front; however they can be cheated by a cheque that doesn't clear etc."

When it comes to hiring an agent, Van der Linde advises landlords to ensure that they have a Fidelity Fund Certificate and are registered with the EAAB (Estate Agents Affairs Board). "It's also good to check whether your managing agents have access to credit bureaux, such as TPN, which not only check the client's credit history, but allow the agent to track and record payment profiles, blacklist bad tenants and reward good tenants. It is worth supporting the agent who subscribes to these services to ensure that thorough checks are done, tenants are recorded and your risk is minimised," he advised.

While tenants do enjoy more protection than landlords, renting out property can still be very rewarding as long as the landlord does his homework when it comes to appointing a rental managing agent and selecting a tenant.

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