

# TAYFIN TAXTALK

ACCOUNTANTS & FORENSIC AUDITORS

*“Your Empowered Insight into the World of Tax, Business and Personal Finance Issues.”*

## “A RAY OF HOPE”

In the current economic landscape, **homeowners** are finding themselves in the unfortunate position of defaulting on **bond repayments**.

Consequently, many homes are being repossessed by **financial institutions** holding mortgage bonds.

Sadly these properties are sold on **public auctions**, often for a mere fraction of their actual worth.

The distressed **homeowner** is then dislodged from his home and remains liable for any shortfall as well as legal costs.

On **12 September 2018** a full bench of the **South Gauteng High Court** made a ruling in terms of which repossessed homes may no longer be sold on auction without a reserve price (which is the minimum price that a property may be sold for at an auction), save for exceptional circumstances.

What this essentially means is that in matters where execution against **primary residences** have been granted, a reserve price must be set, and homes may no longer be sold on auction for less than the reserve price, which will be determined by placing all the relevant facts before the **court**.

The ruling is only applicable to **primary residences**, and will allow **homeowners** to retain some of the equity invested in their homes.

The ruling further goes on to state that the privilege to reinstate a mortgage loan agreement rests with the consumer, and not the credit provider.

**Homeowners** will therefore be entitled to reinstate the mortgage loan agreement with the financial institution once the arrears together with “reasonable costs” have been settled.

This is indeed good news and provides some relief for **homeowners** who are experiencing financial difficulties.

It is anticipated that other divisions of the **high court** may soon follow suit.

## MORALITY UPHELD

**Homeowners** always suffered a double loss.

Circumstances being the **first** and **secret, secondary auctions** being the **second**.  
The debtor loses his property at a depreciated value and remains liable for any shortfall.

For too long financial institutions got away with not giving the homeowners who’s properties have been repossessed a fair deal. It is clear to the ordinary person - as required by law - that selling a house far below its actual value, while the home owner in default is held liable for the difference, is unfair. It is time for the courts to catch up.

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TAYFIN JOHANNESBURG

TAYFIN RUSTENBURG

TAYFIN CAPE TOWN  
(Opening Soon)

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For any comments or suggestions regarding this advertisement or further editions please contact our offices at 014 592 3234 / management.rtg@taygro.co.za.

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