rural development
& land reform
Department:
Rural Development and Land Reform
REPUBLIC OF SOUTH AFRICA

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REGISTRAR CIRCULAR 16 /2014

NOTES AND GUIDELINES IN RESPECT OF THE REJECTION OF DEEDS AND DOCUMENTS

The question as to when a deed or document must be rejected is not an easy one. However, it is submitted that there should be some hard and fast rules laid down, in order for the profession and the deeds registries to be on the same page.

Section 3(1) (b) of the Deeds Registries Act 47 of 1937 (the Act) provides in this regard as follows:

"..... and after examination reject any such deed or other document the execution or registration of which is not permitted by this Act or by any other law, or to the execution or registration of which any other valid objection exists ....."
Deeds must be examined in its entirety. The principle of "not further examined" is totally discourage. No examiner has the authority to "not further examine" a deed. It must be discussed with the monitor who must be in writing consent to "not further examine" the deed. A note must be raised to the conveyance to point out to the conveyance that the batch was "not further examined"

1. Deeds will be rejected where one of the following objections has been raised:

    1.1 The names and particulars of Transferors, Transferees, Mortgagors, Applicants and consenters are wrong in any respect, whether a minor discrepancy or not. (CRC 2/2009, RC 10/2014, RCR 36 of 1954).

    1.2 Errors in the description of properties. (CRC 2/2009, RC 10/2014, RCR 36 of 1954).

    1.3 Causa or date of transaction is not disclosed (CRC 2/2009, RC 10/2014, RCR 36 of 1954).

    1.4 Any errors in the extending clauses. (CRC 2/2009, RC 10/2014, RCR 36 of 1954).

    1.5 Errors in important numerical data in conditions (CRC 2/2009, RC 10/2014, RCR 36 of 1954).

    1.6 Titles not being produced. (Section3 (1) b) Act 47/37).

2. The above is not all encompassing and for that reason it is deemed necessary to give some further guidance. The following notes should also be regarded as rejection notes:

    2.1 Any full initialling required in powers of attorney or consents.
    (See paragraph 2 below)

2.2 Errors in affidavits, requiring the affidavit to be redrawn and the oath re done. (RCR 29/06, CRC 1/62)

2.3 The retyping of pages in deeds or where the deed must be redrawn, because of errors or poor quality of printing. (Inclusive of bonds). (CRC2/2009, Para 2.6 and RC 10/2014).

2.4 The retyping of any page of a power of attorney or consent. (RCR 29/06)

2.5 The lodgement of any document required by law or required for further proof for registration purposes.

2.6 The providing of false certificates by Conveyancers. (CRC 6/2003)

2.7 Any prohibiting interdict.

2.8 All pages of Powers of Attorney must be fully initialled. (RCR 19/89)

2.9 Draft bond to be initialled by all parties (RCR 26 of 2004)

2.10. Falsification of signatures (RCR 26 of 2006)

2.11 The wrong prescribed form was utilized. (RCR 36 of 1954)

2.12 Compliance with Reg.44 Act 47/37 and Reg.16 (B) Act 95/86 – (where Power of Attorneys and documents are not signed by the conveyance)

3. Full initialling by the executing party, witnesses and possibly a preparer will be required for the amendment of the following on a Power of Attorney, Application, Consent or Agreement to Partition:

3.1 The amendment of an error in the names, identity number, registration number or marital status of the transferor, mortgagor, applicant or consenting party. (RC 624 dated 25/11/1992)

3.2 If the error in the names of the transferee is of a material nature, for example Fourie instead of Van der Merwe, such rectification must be fully initialled.
(RC 624 dated 25/11/1992)

3.3 An error in the date of the transaction. (RC 624 dated 25/11/1992)

3.4 An incorrect causa.

3.5. An error in the purchase price. (RC 624 dated 25/11/1992)

3.6. An error in the property description with regard to an Erf number/section number or the portion number of an Erf, agricultural holding or farm. (RC 624 dated 25/11/1992)

3.7. Incorrect conditions created which must be deleted.

3.8. An error in the amount in a mortgage bond, inclusive of the cost clause.
(RC 624 dated 25/11/1992)

3.9. An error of a bond number in a consent or document.

3.10. Authority for para's 2.1- 2.9 above will be read in Reg. 20(4), Reg. 44 (2) Act 47/37, Reg 16B (2) Act 95/86, RCR 15 of 1988 and RCR19/89 as confirmed by RCR 10 of 2004.

4. With regard to transfer duty receipts, provisions contained in CRC 9 of 2009 must be adhered to. Deeds will be rejected if incomplete information or errors in respect of the following on a transfer duty receipt appears:

4.1. The full names and first six digits of the identity number/ registration number of the parties.

4.2 Where a clear difference between a name/identity number/registration number cited in other documents (i.e. power of attorney) and the Transfer Duty Receipt exist.

4.3. Date of transaction.

4.4. Purchase price. If the property was sold, it must tally with the purchase price referred to in the power of attorney.

4.5. Property description. (Property in a sectional title scheme must be described by referring to the number of the section, name of the scheme, and the sectional plan number) No reference need be made to the undivided share in the common property. The exclusive use area must be described by referring to the exclusive use area, for instance G 10, name of the scheme, and the sectional plan number.)

4.6. Errors in the property description. Citing incorrect Erf's numbers or the names of places, e.g. Erf 345 instead of Erf 435, and Erf 345 Athlone instead of Erf 345 Cape Town, must not be accepted. Errors with regard to the incorrect portion, e.g., portion 1 instead of portion 11 or the remainder of a portion 1, etc. must not be accepted.

4.7. Reference to a personal servitude, e.g. usufruct etc.

4.8. Deposit Transfer Duty Receipts must not be accepted for registration purposes. A Transfer Duty Receipt, on which the word "Deposit" has been deleted, must not be accepted as a valid Transfer Duty Receipt.

5. As this list is on-going only the following notes to be made for prep are highlighted:

5.1 Lodgement of correct covers.

5.2 Where an unnecessary clause in a section 15B (3) Act 95/86 certificate must be deleted.

5.3 Compliance with regulation 18(3) Act 47/37 or notes requiring a Conveyancer's Certificate.

5.4 Compliance with regulation 43 Act 47/37 or regulation 16(A) of Act 95/86.

5.5 Omission of a PA number for a grantor **other than a natural person.**

6. Examiners are urged to properly exercise their discretion and apply all the above mentioned authorities and Guidelines correctly and fairly before they reject any transaction, especially on big batches and deeds that have been lodged more than once with different reject notes.

7. Any note purged by a Deputy Assistant Registrar or examiners must be done with full signature, name stamp and date.

In the absence of a name stamp the person removing the note must write his /her name in Print underneath his/her signature.

RC 8/2003, RC 7/2007, RC 12/2014 are herewith withdrawn

Registrar of Deeds
Pretoria
Date: 28/11/2014