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Five legal agreements every woman should understand before signing

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Women's Month is an opportunity to celebrate the resilience and achievements of women. It is also a time to reflect on the barriers that continue to undermine their independence and financial security.

Domestic violence remains a devastating reality in South Africa. However, abuse is not always physical. One of the least recognised and very damaging forms of domestic violence is economic abuse which occurs when an abuser controls another person's access to money, employment, assets or credit, creating financial dependence and limiting their ability to leave the abusive relationship. While it often goes unnoticed, its effects can be long lasting, trapping victims in cycles of abuse and control.

Financial independence is often a key to escaping an abusive relationship. However, many women often unknowingly sign legal agreements that expose them to debt, financial liability or the loss of valuable rights. While these agreements are not inherently harmful, signing them without fully understanding their legal consequences can result in devastating financial implications.

Here are five agreements every woman should understand before putting pen to paper.

Suretyship

A suretyship agreement is a legally binding contract in which a person agrees to be responsible for another person's debt if that person fails to pay.

Standing surety for a spouse, partner, child or family member is often done out of love, loyalty or trust. However, if the borrower fails to make payment, the creditor may recover the debt from the surety. It is not a defence that the relationship has ended or that you never benefited from the loan.

Before signing a suretyship agreement, ask yourself one important question: If this person never pays another cent, can I afford to repay the debt myself? If the answer is no, think carefully before signing.

Credit agreements

Credit agreements include personal loans, vehicle finance, credit cards and store accounts. These agreements are primarily regulated by the National Credit Act 34 of 2005 ("NCA"), which provides important protections for consumers.

Credit can be a useful financial tool when used responsibly. However, you should avoid taking credit or obtaining finance for another person. If that person fails to repay the debt, you remain legally responsible for the repayments, regardless of any private arrangement between the parties.

Before signing a credit agreement, ensure that you understand the total cost of the credit, including interest and fees, the repayment period and the consequences of default. A poor credit record can affect your ability to obtain future credit, purchase a home, finance a vehicle, rent property and, in some instances, even secure employment. If you become over-indebted, seek assistance early, as the NCA provides mechanisms such as debt counselling to assist qualifying consumers.

Marriage

Marriage is one of the most significant legal and financial commitments a woman will ever make, yet many enter into marriage without fully understanding its legal consequences.

A common misconception is that the payment of lobola determines whether a couple is legally married or what matrimonial property system applies. It does not.

Unless an antenuptial contract ("ANC") is concluded before the marriage, a civil marriage and, in most instances, a monogamous customary marriage will be in community of property. This means that the spouses generally share one joint estate, including both assets and liabilities. An ANC allows couples to marry out of community of property, with or without the accrual system.

It is also a misconception that there is no valid customary marriage because only part of the lobola was paid or because there was no "white wedding". If the legal requirements for a valid customary marriage—namely: the prospective spouses must both be above the age of 18 years, must both consent to be married to each other under customary law, and the marriage must be negotiated and entered into or celebrated in accordance with customary law—have been met, a legally recognised marriage may exist. Obtaining legal advice before marriage is not planning for divorce; it is protecting your financial future.

Property purchase agreements

Buying property is a huge financial commitment, and understanding the legal implications of the agreement before signing is essential to protecting your investment. Encouragingly, according to recent property market data, women now outnumber men as sole residential property owners in South Africa, reflecting the significant strides women are making towards financial independence. As more women invest in property, it is important to understand the legal requirements that govern the purchase and transfer of ownership.

In terms of the Alienation of Land Act 68 of 1981, the sale of immovable property must generally be in writing and signed by the parties. However, signing the agreement does not automatically make you the owner. Ownership of immovable property passes only once the transfer is registered in the Deeds Office.

Before signing any property sale agreement, it is imperative to confirm that the seller has the legal right to sell the property, understand when transfer will take place and familiarise yourself with the costs involved, including transfer duty (where applicable), conveyancing fees and bond registration costs. A little caution and obtaining legal advice before signing can prevent costly disputes later.

Settlement agreements

A settlement agreement is a legally binding contract in which parties to a dispute agree to resolve a dispute by setting out the terms on which the matter will be settled, often without the need for further litigation or a trial. Settlement agreements are commonly concluded in divorce proceedings, employment disputes and civil matters.

When emotions are high, there is often a temptation to sign simply to bring the matter to an end. However, given the legally binding nature of settlement agreements, you may waive important legal rights or compromise claims you may otherwise have had.

Before signing, you must ensure that you understand exactly what you are agreeing to, whether the settlement is fair and what the long-term legal and financial consequences may be. If you are uncertain, it is important to obtain legal advice before signing.

Final thoughts

Knowledge is one of the most powerful forms of protection. Before signing any contract, take the time to read it carefully, ask questions and seek legal advice where necessary. The best time to protect your financial future is before you put pen to paper. Women's financial empowerment is not only about earning an income; it is also about understanding the legal agreements that can protect, or undermine, that independence.

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