

Is NSW Strata Law Reform Missing a Beat?

This week, our newsletter offers a fresh perspective, asking: can we learn from strata law around the world?

We're excited to feature Fausto Di Palma, a South African Strata Lawyer with 14 years of experience. He's observed that South African strata title shares many similarities with NSW and Australian strata laws in general. Fausto has recently moved to Australian shores, bringing his valuable insights and now working with JS Mueller & Co Strata Lawyers.

***"When the music changes, so does the dance."* – African Proverb**

Strata law is no exception. It must evolve through reflection, adjustment, practicality and sometimes, through learning from others, some of whom may have learned from us.

For decades, South Africa studied and borrowed from the legislative frameworks of New South Wales and other Australian states in developing its sectional title (strata) laws. But in a turn of legal symmetry, is it now NSW that may have something to learn in return?

In the ongoing strata law reform locomotive in NSW, where much has been said about fairness, transparency and financial sustainability, one question seems to remain unresolved:

Do we need to protect owners who have already paid their share of a liability when the owners corporation is sued, judgment is granted against the owners corporation, and the levy debt remains unpaid by the owners corporation?

South Africa has answered that question. New South Wales has not.

An Unaddressed Exposure in NSW?

The *Strata Schemes Management Act 2015* (NSW) (SSMA) permits proceedings to be brought by or against the owners corporation where lot owners are jointly liable. Section 254(3) then provides that any judgment is binding on the owners as though it were entered against them directly. Section 254(4) allows for proportional contribution by unit entitlement.

But what the SSMA does not do is protect a paying owner from further enforcement once they have already contributed their portion of the levy (e.g. paid a special levy that was raised to pay part of the contract or debt). There is no statutory barrier shielding those who have fulfilled their financial obligations from being rejoined in enforcement proceedings simply because the owners corporation, as a whole, cannot satisfy the judgment.

Smarter Strata Protection – Section 15 of the STSMA

By contrast, section 15 of South Africa's *Sectional Titles Schemes Management Act 2011* (the South African Act) seems to strike a better balance between collective liability and individual fairness.

It provides that where a creditor obtains judgment against a body corporate, and that judgment remains unsatisfied, the creditor may seek to join individual owners as co-debtors. However, and crucially, section 15(1)(c) of the South African Act expressly protects owners who have already paid their share of the debt via levies or contributions.

Here it is:

“Any member of the body corporate who has paid the contributions due by him or her ... in respect of the same levy debt prior to the judgment against the body corporate ... may

not be joined as a joint judgment debtor in respect of the judgment debt.”

The law is therefore not blind to who has already carried their portion of the load.

The Problem with NSW's Silence

While section 254(4) of the SSMA provides that contributions must be shared in accordance with unit entitlement, it is procedural rather than protective. It does not deal with the consequences of debt enforcement or allow an owner to raise payment as a defence to further liability. Are some owners paying twice?

The result is a system in which owners who have paid a special levy or ordinary levy linked to a judgment debt are still exposed. In addition, creditors have no clear legislative route to target only defaulting owners, and owners corporations are left with a governance vacuum when attempting to ensure proportional accountability.

Reform Through Reception

The South African legislature took a comparative, evolutionary approach to sectional title reform, drawing inspiration from both the Australian and Singaporean models, while adapting to local risk profiles. Its solution in section 15 of the South African Act is elegant and functional. It reflects an understanding that financial responsibility in community schemes must also be individualised when the collective fails.

New South Wales, for all its strata reform activity, seems to have overlooked this risk. As owners corporations turn to borrowing for capital works, insurance premium shocks, and defect remediation, the absence of a legal protection for paying owners becomes not just an oversight, but a structural flaw.

New South Wales has an opportunity to import a focused, practical reform (or adapt it accordingly): the kind that acknowledges the reality of mixed compliance within owners corporations and shields the responsible from being dragged down by the delinquent.

In this instance, it is not shameful to borrow from the borrower. It is sound lawmaking. South Africa has danced this dance already. Should NSW consider stepping in time?

Are Unpaid Levies a Problem for Your Strata Scheme?

Effective [levy collection](#) is vital for your Owners Corporation's financial health. As Fausto Di Palma's insights suggest, robust management of arrears can protect owners from future liabilities.

JS Mueller & Co Strata Lawyers specialises in expedient and impactful levy debt recovery. With 45+ years expertise in NSW strata law, we provide prompt and decisive solutions to secure your strata scheme's financial stability.

PS. *Did you also know that NSW levy collections are set for big legal changes, to practice and procedures in 2025 later this year? Here we share [the top 9 key changes](#).*

[NEED HELP WITH LEVY DEBT COLLECTION CLICK HERE NOW!](#)



Fausto Di Palma I BCOM LLB

Fausto has specialised in South African sectional title (strata) and community scheme law for over 10 years and is currently requalifying in NSW to be able to practise strata law in NSW as a solicitor. [LinkedIn](#)

Contact Us

For all strata law advice including by-laws, building defects and levy collections contact our specialist NSW and Sydney strata lawyers [here](#) or call 02 9562 1266, we're happy to assist.