

RIGHTS-SWAZILAND: Property Rights At Last for Women

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MBABANE, Mar 5, 2010 (IPS) - A recent court ruling has finally given Swazi women the right to own and administer property in their own names.

Many Swazi women married in community of property have been left in the cold by their husbands, who chase them out of their matrimonial homes or sell property without their knowledge. In some cases, the wives will have paid for the property but leave with nothing because it is registered in their husband's name.

Dolly Ndlovu* found herself in this situation after moving out of her matrimonial home last year. She is still paying the bond on the house where her estranged husband now lives with his mistress.

Back in 1995 when she applied for the loan Ndlovu was not aware of what she was getting herself into. It was only 10 years later, when she tried to use the property as collateral on a car loan application, that she realised the house was not actually hers.

"I was shocked when the bank told me that, although I was the sole payer of the bond, my husband was the sole owner of the property," said Ndlovu, a primary school principal and women's rights activist.

The bank refused to stop deducting the loan installments from her salary when she moved out of the four bedroomed house because the bond is in her name.

Due to the brave efforts of women's rights activist Doo Aphane, who challenged the Deeds Registry Act on the basis of the equality clause of the Constitution, other Swazi women will no longer have to experience what Ndlovu has gone through.

Last year Aphane took government to court where she argued that the provisions of Section 16(3) of the Deeds Registry Act not only undermines her dignity but is also discriminating of her and other women married in community of property in the kingdom.

Section 16(3) of the Deeds Registry Act prevented women married in community of property from registering immovable property in their names. This piece of legislation further allowed the husband to be the sole administrator of the property.

Aphane further asserted that this piece of legislation is against the provision of Section 20 of the Constitution, which states that everyone is equal before the law while Section 28 awards women equal rights to men in political, economic and social activities.

Justice Qinisile Mabuza last week gave women married in community of property the right to register property in their names and have equal partnership with their husbands in its administration.

She further ordered parliament to put into motion the law reform process so that offending statutory provisions such as Section 16(3) of the Deeds Registry Act are removed from the country's statutes.

Mabuza observed that the legislature has had enough time since the adoption of the Constitution in 2005 "to embark on aggressive law reforms, especially those relating to women who have been marginalised over the years in many areas of the law."

Despite being signatory to various international instruments aimed at empowering women, including the Convention on the Elimination of all Discrimination Against Women (CEDAW) and the Southern African Development Community (SADC) Protocol on Gender and Development, the Swazi government has done little to amend laws that subjected women to

perpetual minority status.

The women's movement sees the judgment on property registration as an important milestone towards law reform in the country and an opportunity for women's economic advancement.

"Now women can use their 50 percent of the property they own jointly with their husbands as collateral to get loans to start businesses," said Aphane.

Although title deed land accounts for only 30 percent of the land in the Kingdom, Aphane said a lot of economic activity takes place in urban areas, which is why this judgment will uplift the Swazi economy.

Lungile Mzizi, project manager at the Business Women's Forum of Swaziland could not agree more with Aphane. She said women in the country are now in a position to venture into big businesses such as construction and property development because it is clear who owns what between husband and wife.

The Swaziland Women's Parliamentary Caucus (WPC) has also welcomed the judgment. Member of Parliament and women's rights activist Nonhlanhla Dlamini, told IPS that it was brave of Aphane to take the tedious legal route because many other women in her position were afraid.

"As the WPC we're very excited about this judgment and we'll take it upon ourselves to ensure that laws aimed at protecting women are passed in Parliament," said Dlamini. Dlamini told IPS the Sexual Offences and Domestic Violence Bill would be a priority for Parliamentary debate when the legislature starts sitting this month.

Because this judgment does not apply in reverse, it will not affect Ndlovu's situation. But she told IPS she is consoled by the fact that her child will not go through the same experience as she did. *Not her real name

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