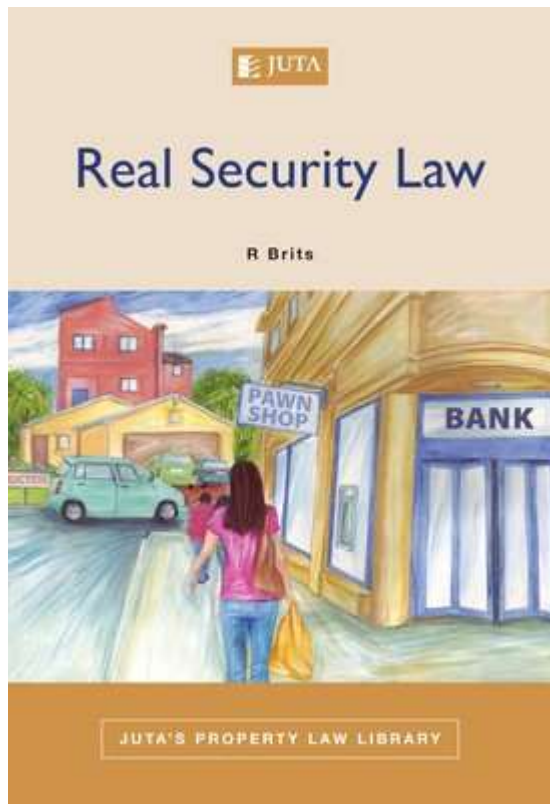


Book Review



REAL SECURITY LAW

By Reghard Brits

(691 pages)

Juta & Co (Pty) Ltd

Juta's Property Law Library

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" Putting moral virtues at the highest, and religion at the lowest, religion must still be allowed to be a collateral security, at least to virtue; and every prudent man will sooner trust to two securities than to one"

- Earl of Chesterfield (1694-1773)

It has been said that although South Africans achieved freedom under the Constitution of 1996, they nevertheless remain in bondage. Progress, for example through investment in property development, housing and infrastructure, inevitably requires credit, and creditors require their rights to be secured in the event of default. This may be achieved in a number of ways including mortgage bonds, notarial bonds, pledges and liens.

Real security law is where property law and credit law meet to regulate the rights that creditors have to property belonging to their debtors, either as agreed upon between the parties or by operation of law. Such rights secured

by creditors facilitate affordable borrowing, investment in property and industry, and thus the promise of economic prosperity.

In South Africa's ever-changing socio-economic context, a sophisticated system of both common law and legislation has evolved to maintain a fine balance between the rights of debtors, creditors, other parties and the general public. Financial uncertainty, unemployment, rising consumer over-indebtedness and homelessness are some of the critical factors which impact on this fundamental area of our law. Without insecurity there would presumably be no need for real security law.

The distinguished author of this key volume in Juta's Property Law Library series, Reghard Brits BComm LLB LLD, Senior Lecturer in the Department of Mercantile Law at the University of Pretoria, describes and analyses the current state of real security law in South Africa. Published author of numerous journal articles on the law of property, he expertly draws together legal theory, constitutional imperatives, commercial realities and the requirements of legal practice.

In addition to all the conventional forms of real security, such as the mortgage of land, the pledge of movables, general and special notarial bonds, cessions in security of debt, the landlord's tacit hypothec and rights of retention, other security mechanisms imposed by statute are also fully dealt with, for example municipal charges, embargo powers and the instalment-agreement.

Readers will be well served by the extensive bibliography of further sources, the tables of cases and legislation, both domestic and foreign, the comprehensive index and pertinent footnotes.

The author expresses the hope that "...the foundation laid in this book will also serve as a platform for future modernisation – not only to keep up with global trends and ever-expanding technological possibilities, but to develop a system that is suitable for our particular socioeconomic and political context."

This meticulously researched yet expansive forward-looking overview of real security law will be welcomed by a broad spectrum of practitioners, property owners, financial institutions and business people, straddling as it does contract law, insolvency, corporate law, banking and finance, consumer protection and conveyancing practice, all in the wider context of our economic, social and political systems.

Juta's Property Law Library is an ambitious and remarkable project aimed at a comprehensive review and re-assessment of every aspect of South African property laws. In particular, the series examines the common law, case law, academic commentary and policy considerations in the context of South Africa's new constitutional framework, and probes whether the law in question could contribute towards the transformation of South African law and society.

Review by Louis Rood BA LLB (UCT) of Fairbridges Wertheim Becker.