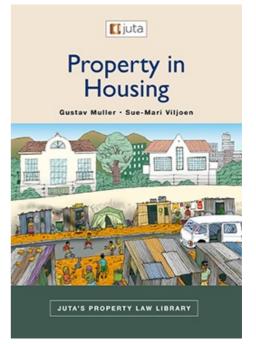


Property in Housing

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About this Publication:

Property in Housing unpacks the right of access to adequate housing (section 26 of the Constitution of the Republic of South Africa, 1996) from a property perspective. The purpose of the volume is to reassess how and to what extent property plays a role in the protection, promotion and fulfilment of this right.

The characteristics of access to 'adequate' housing – as articulated by the United Nations Committee on Economic, Social and Cultural Rights in its General Comment 4 – serve as an organising framework for the volume. It is within this framework that we explore how property law can be used and aligned to implement the right of access to adequate housing as a vehicle for large-scale transformative aims.

Themes that are used to explore the vigorous relationship between property and housing include the centrality of the home in housing versus proprietary conflicts; the extent to which property narrates the conception of adequate housing, absent dedicated legislative reform; and the instrumentality of property as a vehicle for transforming the housing sphere.

The property paradox in the context of the housing clause is threefold: the property institution must be curtailed to make way for housing interests; it must be utilised (with legislative measures and sometimes without) to do some of the section 26(1) heavy lifting – for instance, to provide secure tenure or ensure access to services; and it must foster a culture of regulation by way of the constitutional property clause (section 25), to provide the required access to the spaces that we envision adequate, at the costs that we consider reasonable.

The monograph first introduces the authors' approach, methodologically and theoretically, with reference to the history of property in housing in South Africa, the limited juridical development of our understanding of 'adequate' housing in the constitutional dispensation, the way in which housing relates to other constitutional rights, and the characteristics of having adequate

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progressive realisation of the South African housing mandate and respecting its anti-eviction measures. The development of the normative and substantive content of the right of access to adequate housing lies in the space left incomplete by property law. As such, this monograph is a call to action for this development to be achieved in order to foster a democratic South Africa for all who live in it.

Property in Housing will be a valuable resource for subject specialists, researchers, advanced students, practitioners and the judiciary alike.

Contents Include:

- Chapter 1: A systemic, contextual approach to property and housing
- Chapter 2: Security of tenure
- Chapter 3: Services
- Chapter 4: Accessibility
- Chapter 5: Habitability
- Chapter 6: Affordability
- Chapter 7: Location
- Chapter 8: Cultural adequacy

Of Interest and Benefit to:

- Advanced Law students
- Subject specialists
- Law teachers
- Researchers
- Law practitioners
- The judiciary