

# There's A Need For Class Action Lawsuits in Namibia

THANK you for printing Lucy Quacinella's opinion piece of homelessness ('Criminalising the Poor', 24 June 1994). The Urban Trust, a new non-partisan NGO service organisation, supports the writer's contention that the urban poor deserve greater access to legal due process. We also fully agree that the Government's resources and energies should be directed into economic development and housing programmes rather than 'resettling' squatters. We Namibians also appreciate her diplomatic references to the spotty track record of US cities in dealing with the homeless.

There may be more to this issue, however, than first meets the eye. It is our understanding - and we beg to be corrected on this matter - that if a certain group of homeless people were to face an eviction by the municipality or the Ministry of Regional and Local Government and Housing, the group members would, if each could afford it, have to find legal representation on an individual basis rather than as

a 'class' to get an interdict. The notion of bringing a 'class action' lawsuit against the municipality or the Government, a relatively common tactic by poverty lawyers in the US, is unheard of in Namibia. The Urban Trust hopes we are wrong in this analysis, but if there is any legal or procedural reason preventing class actions in Namibia, we strongly urge the Ministry of Justice, the Legal Assistance Centre, the Law Society and UNAM's HRDC to draft legislation, with meaningful public input, that will allow low income people or consumers facing social and economic discrimination, to express their legal right to sue the Government as a group or 'class'. Without this ability, it does not really make much difference if the Government's eviction is legal or illegal; the result would be just the same.

On the other hand, many of the elected mu-

nicipal and regional council officials, the National Housing Enterprise, the Housing Directorate and others, are trying their best to cope with increasing urbanisation. However well-intentioned their actions, most are often planned without any public input, the results to date are the 'criminalising' of the poor on a number of fronts. Ms Quacinella describes the first in her article. A second is that resettled squatters from, say as an example, the single quarters, which was a robust local economy two years ago, are essentially forced to buy hard-to-service land (some on the pretence that they were getting the land for free) further out of town that many people neither wanted nor could afford.

Many are now in serious arrears to the National Housing Enterprise and the municipality, face imminent eviction while the Government faces the curse of land speculators

who will privatise public subsidies.

Rental options, upgrading in situ, and decreased regulation on informal sector business activities, rather than home ownership, might be more appropriate options for many of the urban poor.

As to re-directing Government resources, why does the Government continue to make large annual budget transfers to Transnamib and Swawek, which have bloated reserves and resist affirmative action, while the National Housing Enterprise and Namibia Development Corporation, which have implemented affirmative action policies, receive non and little Government funding support respectively? Why is real Government expenditure to municipalities and especially secondary towns for servicing land declining? Why are funds for surveying, mapping and proclamations not increasing in the communal

towns? Why is there no consistent urban land pricing policy that encourages cross-subsidisation from high income communities to low income communities? Why do regions receive flat rate budget allocations regardless of the incidence of poverty in their regions and their ability to raise funds from towns in the region? How can we encourage systematic, open and formal public review of both private banking and Government planning practices?

The Government and the municipalities and towns are doing the best they can in the face of severe resource constraints. With more opportunities for formal participation and increased civil education, together NGOs, community-based organisations, the private sector and indirect and direct taxpayers may be able to assist the Government to foster more effective, efficient, democratic and developmental forms of urban governance.

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*Letters to the Editor*