

Alternative dispute resolution in residential sectional title schemes in South Africa: A systematic literature review and research agenda

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SUMMARY

This paper reviews literature on the effectiveness of alternative dispute resolution (ADR) mechanisms in enhancing ownership rights within the residential sectional title schemes in South Africa. The paper aims to assess the extent to which homeowners' ownership rights in sectional title properties are protected by ADR mechanisms. The methodology involves an archival study of legislation, case law, policy documents, and documents from the Community Schemes Ombud Service (CSOS) and the National Home Builders Registration Council (NHBRC). The findings, based on the existing literature, highlight systemic issues and ineffectiveness within ADR regulatory bodies. Gaps were also identified in the literature regarding a cohesive framework that links the ownership rights, governance, and dispute resolution. These findings underscore the need for structural reforms to ensure that ADR institutions effectively uphold justice and equitable treatment for the residential sectional title property owners. The paper recommended the need for a comprehensive framework to connect ownership rights, institutional governance, and ADR mechanisms to ensure that equitable treatment for property owners is achieved.

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