Dispute Resolution in Sectional Title Schemes: Ideas for Improving the Ombud Service

JG Horn* and NS Christians**

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Authors

Jacomina G Horn
Nathan S Christians

Affiliation

University of Free State, South Africa
Associate at PH Attorneys, Bloemfontein, South Africa

Email

hornjg@ufs.ac.za
nathan@phinc.co.za

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Abstract

Dispute resolution in sectional title schemes in South Africa has come a long way – from litigation, to the arbitration mechanism introduced by management rule 71, to referral to the Ombud Service created by the *Community Schemes Ombud Service Act* 9 of 2011 (the CSOSA). The two-stage dispute resolution mechanism provided by the Ombud Service, comprising conciliation and adjudication, has undoubtedly reduced the number of sectional title disputes reaching our courts. It also saves applicants time and money. However, judging by case law of matters that, having gone through the Ombud Service process, ended up in court for clarity, there is room for improvement in the implementation of the CSOSA and the operation of the Ombud Service. This article first examines selected case law to highlight some practical challenges detracting from the effectiveness of the CSOSA and its dispute resolution system. Secondly, a comparison between the CSOSA and New South Wales's *Strata Schemes Management Act* 50 of 2015 offers further insight into how the South African system may be streamlined. Key recommendations relate to the training requirements for adjudicators and other staff of the Ombud Service, as well as the introduction of a provision that specifically deters court applications where disputes can and should be resolved by the Ombud Service. An internal appeals mechanism, to be conducted by the Ombud Service itself, may also be beneficial – not only to lighten the judiciary's load, but also in light of the current murkiness around the correct way for bringing adjudication appeals to court.

Keywords

Community Schemes Ombud Service Act; dispute resolution; Ombud Service; sectional title schemes.

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1 Introduction

Before the implementation of the *Community Schemes Ombud Service Act* (the CSOSA),[1] disputes[2] in sectional title schemes were generally resolved through litigation and, following the introduction of management rule 71 of the *Sectional Titles Act*,[3] arbitration.[4] The arbitration provided for in rule 71 was a form of statutory arbitration, with no prior agreement required between the parties to the dispute.[5] The proceedings were governed by the *Arbitration Act*,[6] provided that they were also consistent with the requirements of the *Sectional Titles Act*.[7]

However, the suitability of rule 71 arbitration for resolving sectional title disputes came under considerable criticism,[8] which ultimately led to its repeal[9] and the promulgation of the CSOSA as well as the *Sectional Title Schemes Management Act* (the STSMA).[10] The CSOSA introduced conciliation and adjudication through the Ombud Service as mechanisms for resolving disputes in community schemes in general.[11] These mechanisms and their implementation form the subject matter of this article.

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* Jacomina Gerharda Horn. B Proc LLB LLM MA (HES) LLD (North-West University). Senior lecturer in Property Law and Sectional Titles, University of the Free State, South Africa. E-mail: hornjg@ufs.ac.za. ORCiD: https://orcid.org/0000-0001-5220-7386.

** Nathan Shane Christians. LLB LLM (University of the Free State). Associate at PH Attorneys, Bloemfontein, South Africa. E-mail: nathan@phinc.co.za. ORCiD: https://orcid.org/0000-0002-4744-2530.

1 *Community Schemes Ombud Service Act* 9 of 2011 (CSOSA).

2 Pienaar *Sectional Titles* 220-226. The meaning of "dispute" was considered in *Body Corporate Croftdene Mall v Ethekwini Municipality* [2010] 4 All SA 513 (KZD) para 11.

3 *Sectional Titles Act* 95 of 1986 (the 1986 STA).

4 However, arbitration was not the only dispute settlement procedure provided for in rule 71 of Annexure 8 to the 1986 STA regulations (GN R664 in GG 11245 of 1 June 1988, repealed by reg 13 of GN R427 in GG 40842 of 12 May 2017). For instance, rule 71(1) provided for parties to a dispute to approach a court to grant an interdict or any other relief. Since the repeal of Annexure 8, dispute settlement is now generally provided for in s 2(7) of the *Sectional Titles Schemes Management Act* 8 of 2011.

5 Van der Merwe 1999 *SALJ* 624.

6 *Arbitration Act* 42 of 1965.

7 Van der Merwe 1999 *SALJ* 624.

8 Van der Merwe 2014 *Stell LR* 403.

9 Although rule 71 arbitration has since been repealed, it still applies to disputes instituted before the commencement of the CSOSA and the *Sectional Titles Schemes Management Act* 8 of 2011. *Body Corporate of Via Quinta v Van der Westhuizen* (A196/2017) [2017] ZAFSHC 215 (16 November 2017) (hereafter *Via Quinta*) para 22. Refer to Baloolal-Frank 2020 *JIDS* 665, where she discusses the application of rule 71 in case law.

10 *Sectional Titles Schemes Management Act* 8 of 2011 (STSMA).

11 Pienaar *Sectional Titles* 226. This also includes disputes in homeowners' associations that were not previously provided for in legislation, as is evident from

More specifically, the main focus is to shed light on some of the practical challenges the Ombud Service has faced at different stages of implementing the CSOSA dispute resolution system. The article does not discuss all the cases brought before the court or the Ombud Service, nor does it offer a full analysis of all practice directives issued by the Ombud. Moreover, it does not negate the major role the Ombud has played in dispute resolution in sectional title and other types of fragmented property schemes. Rather, the article highlights some of the interesting cases that, having gone through the Ombud Service process, ended up in court for clarity.

In addition, the CSOSA dispute resolution system is compared to dispute resolution in so-called strata title schemes in New South Wales, Australia, to determine whether the South African system stands to learn any lessons from that jurisdiction.

First, however, a brief overview of the historical legislative developments that led to the dispute resolution procedures contained in the CSOSA offers a useful frame of reference as to why the CSOSA measures were indeed necessary.

2 Historical foundation of dispute resolution in sectional title schemes

Disputes regarding the management, maintenance or financial affairs of a sectional title scheme or disputes among sectional title owners are an inevitable consequence of living in this type of fragmented property scheme. While earlier sectional title laws paid little attention to the settlement of disputes, lawmakers soon wised up to this reality, and dispute settlement was increasingly incorporated into subsequent legislation.

2.1 Pre-2000 sectional title laws

The concept of sectional titles was introduced in South Africa by the *Sectional Titles Act* 66 of 1971 (the 1971 STA). The 1971 STA did not expressly provide for the settlement of disputes between sectional title owners or between owners and the body corporate,[12] although it did contain general dispute resolution provisions. The latter included the recovery of outstanding levies by the body corporate from owners by way of court proceedings[13] and empowered the body corporate to do "all things

the case law discussed in this article. For a discussion of the legal position of homeowners' associations, see Pienaar and Horn *Sectional Titles* ch 10.

12 Butler 1998 *Stell LR* 256.

13 Section 30(2) of the *Sectional Titles Act* 66 of 1971 (the 1971 STA).

reasonably necessary for the enforcement of the rules and the control, management, and administration of the common property".[14]

The 1971 STA was repealed by the *Sectional Titles Act* 95 of 1986 (the 1986 STA). Similar to its predecessor, the 1986 STA initially failed to provide for dispute settlement among sectional owners themselves or between sectional owners and the body corporate,[15] stipulating only how other disputes falling outside the above scope of parties ought to be resolved.[16] It was the 1997 amendment to the 1986 STA that introduced a set of new management rules, which in rule 71 included arbitration as a method of dispute settlement.[17]

The rule 71 arbitration process became the preferred method for dispute resolution in all matters where litigation was not deemed appropriate.[18] Compared to litigation, arbitration offered the benefits of being less formal, less costly and less destructive to the spirit of the sectional title scheme.[19]

Yet rule 71 was not without flaws: Applying to disputes only among sectional owners or between sectional owners and the body corporate,[20] the rule excluded other parties, such as managing agents or trustees, from using the arbitration proceedings it provided for. To resolve their disputes through arbitration, those excluded from rule 71 had to enter into an arbitration agreement in terms of the *Arbitration Act*.[21] Furthermore, rule 71(2) required parties first to attempt to resolve a matter through alternative dispute resolution procedures within 14 days before they could make use of arbitration.[22] Although arbitration was preferred, a party could still approach a competent court for urgent relief where an arbitrator lacked the necessary capacity to grant such relief.[23]

Although the management rules, specifically rule 71, have since been repealed, their provisions still apply to litigation instituted before their repeal.[24]

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14 Section 30(1)*(o)* of the 1971 STA.
15 Butler 1998 *Stell LR* 256.
16 For example, s 37(2) of the 1986 STA provided for the recovery of levy contributions from sectional owners by the body corporate by instituting an action in any competent court, and s 37(2A) provided for the recovery of special contributions.
17 Butler 1998 *Stell LR* 256-257.
18 Pienaar *Sectional Titles* 222.
19 Pienaar and Horn *Sectional Titles* 234.
20 Rule 71(1) of Annexure 8 to the 1986 STA regulations (GN R664 in GG 11245 of 1 June 1988, repealed by reg 13 of GN R427 in GG 40842 of 12 May 2017), now generally provided for in s 2(7) of the STSMA; Butler 1998 *Stell LR* 260.
21 *Arbitration Act* 42 of 1965; Butler 1998 *Stell LR* 260.
22 Butler 1998 *Stell LR* 260-262; Baloolal-Frank 2020 *JIDS* 666.
23 Butler 1998 *Stell LR* 263-265.
24 *Via Quinta* paras 21-22.

2.2 Post-2000 sectional title laws

By the early 2000s it had become clear that the 1986 STA, including the rule 71 arbitration process, was inadequate to deal with the practical problems that arose in the day-to-day running of sectional title schemes.[25] As a result the STSMA and the CSOSA were promulgated, and the management provisions of the 1986 STA were substantially re-enacted in the former.[26]

Although the main aim of the STSMA is to deal with the management aspects of sectional title schemes, it still provides for dispute settlement in certain instances. These include that "the body corporate may sue … in its own name"[27] for the recovery of arrear levies[28] and special contributions[29] on application to an ombud. In this regard it has been argued that the inclusion of the word "may" implies that the body corporate retains its common law right to approach a competent court to enforce its claim against an owner for the payment of levies.[30] In other words, the body corporate has some degree of discretion in deciding whether to approach an ombud or a court to institute its claim.

In terms of dispute settlement in sectional title schemes, however, the most significant legislative development has been the promulgation of the CSOSA and its establishment of the Ombud Service.[31] As required by the CSOSA,[32] the Ombud Service has set up a national head office, located in Sandton, Johannesburg, and regional offices in the provinces of KwaZulu-Natal, the Western Cape and Gauteng.[33] It has also developed a legal services division that defends or institutes legal action in high-priority cases. The Service is assisted by a panel of attorneys to enhance its "image, profile, and reputation" as an effective regulator and help protect its interests.[34]

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25 Van der Merwe 2017 *TSAR* 280.

26 Maree 2015 *De Rebus* 20.

27 Section 2(7) of the STSMA.

28 Section 3(2) of the STSMA. Refer to Baloolal-Frank 2020 *JIDS* 666, where the interest on levies is discussed.

29 Section 3(3) of the STSMA.

30 Van der Merwe *Sectional Titles, Share Blocks and Time-sharing* para 9.1.2.1.

31 Section 3(1) of the CSOSA.

32 Section 3(3) of the CSOSA.

33 The Gauteng regional office handles complaints from Gauteng, North West and Limpopo, KwaZulu-Natal regional office handles complaints from Free State, KwaZulu-Natal, Mpumalanga and the Western Cape regional office handles complaints from the Western Cape, Eastern Cape and Northern Cape. Van der Merwe *Sectional Titles, Share Blocks and Time-sharing* para 18.1.4.

34 Community Schemes Ombud Service 2023 https://csos.org.za/wp-content/uploads/2023/11/CSOS-AR-22-23-web-file-1-final-printed.pdf 33; see 46 for a discussion of the dispute applications received, rejected, conciliated and adjudicated by the Service.

A board,[35] together with the Chief Ombud and chief financial officer,[36] is responsible for the management and governance of the Ombud Service. The Chief Ombud in turn appoints an ombud and a deputy ombud to manage and administer each regional ombud.[37]

The CSOSA empowers the Chief Ombud to issue practice directives on the operation of the Ombud Service.[38] These directives are used in conjunction with the provisions of the CSOSA and do not replace the legislative stipulations in any way. The following section takes a closer look at the CSOSA's dispute resolution provisions and the latest practice directives issued by the Ombud Service.[39]

3 Dispute resolution by the Ombud Service: How things have changed under the CSOSA

3.1 Locus standi

It is clear from the provisions of the CSOSA that not anyone may apply to the Ombud Service to have a dispute settled. This is already evident from the definition of "dispute", which limits the parties to a dispute to those with a material interest in the sectional title scheme, one of whom must be an owner, occupier or association.[40] Section 38(1) of the CSOSA then expressly stipulates that only a party to, or a person materially affected by, a dispute may apply to the Ombud Service to settle the matter. This application needs to comply with the requirements as set out in sections 38(2) to (4).

The issue of legal standing to apply to the Ombud Service did come before the court in *Body Corporate of Durdoc Centre v Singh*,[41] where it was confirmed that only those authorised under section 38 – being either owners of units in the sectional title scheme or persons with a material interest in

35 Section 6(2) of the CSOSA.
36 Section 14(1) of the CSOSA.
37 Section 21(2) of the CSOSA.
38 Section 36 of the CSOSA.
39 Community Schemes Ombud Service 2019 https://csos.org.za/wp-content/uploads/2023/03/CSOS-Practice-Directive-No-1-of-2019-Dispute-Resolution-01-Aug-19.pdf (hereafter "Practice Directive of 2019"); Community Schemes Ombud Service 2020 https://csos.org.za/wp-content/uploads/2023/03/AMENDMENT-TO-PRACTICE-DIRECTIVE-ON-DISPUTE-RESOLUTION-CLARITY-ON-BODY-CORPORATE-AND-TRUSTEE-MEETINGS.pdf (hereafter "Amendment to Practice Directive of 2019").
40 Section 1 of the CSOSA.
41 *Body Corporate of Durdoc Centre v Singh* 2019 6 SA 45 (KZP) (hereafter *Body Corporate of Durdoc Centre*).

the matter – may lodge a dispute with the Service.[42] Authorisation by the owner of a unit to lodge a dispute does not translate into legal standing.[43]

3.2 Consideration of an application

A notable deviation from the rule 71 arbitration process is that the CSOSA limits the jurisdiction of the Ombud Service to seven categories of disputes, namely financial matters,[44] behavioural matters,[45] scheme governance matters,[46] meetings,[47] management services,[48] work pertaining to private and common areas,[49] and general and other matters.[50] The available forms of relief, too, are restricted to those set out under each category.

The CSOSA and the latest practice directive on dispute resolution – Practice Directive No 1 of 2019 (hereafter "the Practice Directive of 2019") – provide various grounds on which an ombud should reject an application.[51] Among others, the Ombud should dismiss an application if the applicant fails to prove that the disputing parties attempted to resolve the dispute using the scheme's internal dispute resolution measures as required by section 40(c).[52] Clearly, therefore, the CSOSA precludes parties from resolving their disputes by using alternative dispute resolution measures, such as an internal arbitration process.

If an application is allowed, the Ombud must notify all persons it deems materially affected by such application.[53]

3.3 Conciliation

Where the Ombud believes that negotiations may settle the dispute, the matter should be referred for conciliation by a trained conciliator,[54] who will provide the parties to the dispute with seven[55] working days' notice of the conciliation. The conciliator will conduct the proceedings by facilitating

42 *Body Corporate of Durdoc Centre* para 18.
43 *Body Corporate of Durdoc Centre* para 16.
44 Section 39(1)*(a)-(f)* of the CSOSA.
45 Section (2)*(a)-(d)* of the CSOSA.
46 Section 39(3)*(a)-(d)* of the CSOSA.
47 Section 39(4)*(a)-(e)* of the CSOSA.
48 Section 39(5)*(a)-(b)* of the CSOSA.
49 Section 39(6)*(a)-(g)* of the CSOSA.
50 Section 39(7)*(a)-(b)* of the CSOSA.
51 Section 42 of the CSOSA; Practice Directive of 2019 para 12.3.
52 Section 42(b) of the CSOSA.
53 Section 43(1)-(3) of the CSOSA.
54 Section 47 of the CSOSA.
55 The notice period was reduced from 14 to 7 working days in Amendment to Practice Directive of 2019 para 5.1 to ensure better turn-around times for the assessment of applications.

discussions and assisting parties to resolve the current dispute as well as any potential matters that may arise in the future.[56]

Only those parties directly involved in the matter, the representative of a sectional title or other community scheme and those permitted by the conciliator may attend conciliation proceedings.[57] If the applicant fails to attend the proceedings without a reason that warrants postponement, the matter is summarily closed.[58] If one of the other parties fails to attend, the conciliator may issue a certificate of non-resolution.[59] Particularly the Amendment to the Practice Directive of 2019 offer clear instructions on the procedure for conducting conciliations.[60]

Should the parties reach an agreement either before[61] or during conciliation, they may sign a written document formalising the terms of their agreement. The signed agreement can then be made an adjudication order.[62]

The conciliator's role ceases once the conciliation proceedings have ended, whether by resolution of the matter or the issuance of a certificate of non-resolution.[63]

3.4 Adjudication

A matter will be referred for adjudication only if conciliation has failed.[64] However, the Practice Directive of 2019 does provide for direct referral for adjudication if the Ombud believes that attempts at conciliation would be inappropriate.[65] The adjudicator will give all parties seven days' notice of the adjudication.[66]

Where a dispute qualifies for adjudication, it must be referred to an adjudicator chosen by the parties from the Ombud's list,[67] or where the parties cannot agree on such an adjudicator, to the adjudicator identified by the Ombud.[68] Sections 50 and 51 of the CSOSA afford the adjudicator

56 Practice Directive of 2019 para 18.
57 Practice Directive of 2019 paras 19.1-19.2.
58 Practice Directive of 2019 para 19.9.
59 In these circumstances the absent party will be afforded an opportunity to furnish a reason for his or her absence, and if the reason is considered an "exceptional circumstance", the matter will be postponed.
60 Amendment to Practice Directive 2019 para 6.
61 Practice Directive of 2019 para 16.2.
62 Practice Directive of 2019 para 16.3.
63 Practice Directive of 2019 para 16.5.
64 Section 48(1) of the CSOSA.
65 Practice Directive of 2019 para. 21.2.
66 Amendment to Practice Directive 2019 para 7. The civil method of calculating dates applies, as per *Silver Lakes Homeowners Association v Leonard* [2023] JOL 61615 (SCA) (hereafter *Silver Lakes Homeowners Association*) para 18.
67 Section 48(2) of the CSOSA.
68 Section 48(2) and (3) of the CSOSA.

investigative powers to determine whether it would be appropriate to make an adjudication order.[69] Moreover, section 53 empowers the adjudicator to dismiss an application in certain circumstances.[70]

Where an adjudication proceeds, the adjudicator must send a notice of set-down to the parties involved. Parties are not allowed legal representation during the adjudication hearing unless the adjudicator permits it.[71] If any party has written submissions to make, the adjudicator must ensure that each party is furnished with such submissions.[72] Failure by the adjudicator to observe these provisions would amount to procedural unfairness.[73]

Should either party be absent at the adjudication hearing, the adjudicator may continue in that party's absence, provided that attempts have been made to reach the absent party to ascertain the reason for the absence.[74] The adjudication order issued in such absence may be varied or set aside, provided that both parties consent.[75] If not varied or set aside, the order will be binding on the parties and enforceable by the magistrate's court or high court, depending on jurisdictional limits.[76]

Any dissatisfied person affected by the adjudication order may appeal to the high court. This right to appeal is limited to questions of law and should be lodged within 30 days after the adjudication order has been made.[77]

It is clear that the CSOSA provides a structured dispute resolution process, and that where it falls short, the Ombud Service's practice directives – particularly the Practice Directive of 2019 and the amendments thereto – play a vital role to fill the gaps. But while the system appears uncomplicated and easy to apply, its implementation has thrown up a few challenges. In the next section the focus shifts to a few examples where the application and interpretation of the CSOSA and Ombud Service's provisions has posed some practical problems

69 Sections 50 and 51 of the CSOSA.
70 For example, s 53(1)*(b)* of the CSOSA provides that an application may be dismissed if an adjudicator considers it to be "frivolous, vexatious, misconceived or without substance".
71 Section 52 of the CSOSA.
72 Amendment to Practice Directive of 2019 para 26.5.3.
73 *Silver Lakes Homeowners Association* para 15.
74 Practice Directive of 2019 para 25.1.
75 Practice Directive of 2019 provides for the circumstances in which variation or setting aside of an adjudication order is allowed.
76 Section 56 of the CSOSA.
77 Section 57 of the CSOSA.

4 Problems encountered with the new dispute resolution system

4.1 The jurisdiction of the Ombud Service

Section 38(1) of the CSOSA, which provides that any person may apply to the Ombud Service for dispute resolution "if such person is a party to or affected materially by a dispute", is not as clear as it may seem at first glance. This was demonstrated in *Trustees for the Time Being of the Avenues Body Corporate v Shmaryahu* (hereafter *Avenues v Shmaryahu*), among others.[78]

The respondent, Mr Shmaryahu, was a former owner of a unit in a sectional title complex. Having sold his unit, he contended that the levies he had paid had been calculated based on an "irregular levy formula". This contention he based on the fact that certain other owners had illegally converted their garages into living areas, while others had extended their units. He demanded access to the body corporate's books of account to determine whether the levies he had paid had been calculated in line with the provisions of the 1986 STA.[79] Dissatisfied with the response from the body corporate's attorneys, he applied for dispute resolution to the Western Cape Community Schemes Ombud Service.[80]

In his initial application to the Ombud Service, Shmaryahu indicated that the relief he sought was for "all the units to be remeasured by a land surveyor (independent) to determine the correct amounts payable (i.e., levies)", which would clarify "if a refund is due".[81] In response, the body corporate's attorneys contended that the Ombud Service did not have the required jurisdiction in the case, as the matter fell short of the CSOSA's definition of a dispute; more specifically, the attorneys stated, Shmaryahu no longer had a material interest in the scheme, as required by the definition. They further contended that Shmaryahu would not be entitled to a refund on the levies paid in accordance with his participation quota, as any consequences that stemmed from a potential adjustment of the quota would take effect prospectively.[82] Despite this, the Ombud Service proceeded to convene the conciliation and adjudication.[83]

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78 *Trustees for the Time Being of the Avenues Body Corporate v Shmaryahu* 2018 4 SA 566 (WCC) (herafter *Avenues v Shmaryahu*).
79 *Avenues v Shmaryahu* para 4.
80 *Avenues v Shmaryahu* para 6.
81 *Avenues v Shmaryahu* para 8.
82 *Avenues v Shmaryahu* para 13.
83 *Avenues v Shmaryahu* para 16.

The adjudicator ultimately ordered as follows:

> To partially grant the applicant's prayers for relief sought under paragraph 4 and to order the respondent to calculate the levies paid by the applicant by determining the participation quota of the applicant concerning the participation quota as established in terms of the new registered sectional title scheme based on the revised participation quota.[84]

The body corporate subsequently exercised its right to appeal the order in terms of section 57 of the CSOSA.[85] The appeal was upheld, and the adjudicator's order was set aside. The court held that the adjudicator erred in law by not upholding the body corporate's objection to the jurisdiction of the Ombud Service, and by issuing an order that imposed a liability that was incompatible and inconsistent with the current sectional title legislation.[86]

On reflection, both the Ombud and the adjudicator appear to have taken their cue from section 38(1) of the CSOSA in allowing the application, but failed to consider whether the matter constituted a "dispute" as defined in section 1. The Ombud should have dismissed the application upon assessment, as Shmaryahu was no longer an owner of a unit in the scheme and therefore had no material interest in the scheme.[87] By neglecting to consider whether the dispute qualified as such in terms of CSOSA's definition, the Ombud failed to see that the matter fell outside the jurisdiction of the Ombud Service.[88] The adjudicator had had a similar opportunity to dismiss the application on the same grounds, but had not.

4.2 The orders that adjudicators may make

Avenues v Shmaryahu also illustrates the uncertainty regarding the adjudicator's powers, with the court finding that the adjudicator had exceeded his mandate, as the order did not fall within the scope of the section 39 remedies that the adjudicator may grant.[89] In addition, the adjudicator's order that Mr Shmaryahu's liability in respect of his levy contributions to the scheme be adjusted following the amendments to the participation quotas was contrary to the provisions of both the 1986 STA and STSMA. Levies can be charged only on registered participation quotas, and then only prospectively from the date of registration.[90] This error has rightly been ascribed to the adjudicator's reliance on outdated legislation, referring only to the STA and disregarding the STSMA.[91]

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84 *Avenues v Shmaryahu* para 23.
85 *Avenues v Shmaryahu* para 24.
86 *Avenues v Shmaryahu* para 27.
87 Van der Merwe 2020 *TSAR* 160-161.
88 *Avenues v Shmaryahu* para 27.
89 *Avenues v Shmaryahu* para 30.
90 *Avenues v Shmaryahu* para 30.
91 Van der Merwe 2020 *TSAR* 154.

Another example where an adjudicator exceeded the scope of his powers is *Evergreen Property Investments v Messerschmidt*.[92] In this case the adjudicator issued an order beyond the scope of section 39(1) after inappropriately relying on the contents of a rates policy.[93] This order, too, was set aside on appeal.

Of course, adjudication orders may also be taken on review. This the court in *Waterford Estate Homeowners Association v Riverside Lodge Body Corporate*[94] confirmed. The Ombud's powers of adjudication qualify as administrative action capable of review,[95] and should not be compared to the decisions of trustees, who operate in a different sphere and are not subject to the *Promotion of Administrative Justice Act*.[96]

The few cases cited above show that the role of the Ombud is not yet clear-cut, and that despite their training, the adjudicators and staff of the Ombud Service still experience some difficulty in applying the provisions of the CSOSA.

4.3 Inappropriate court applications sidestepping the Ombud Service

Coral Island Body Corporate v Hoge[97] in turn involved an inappropriate application directly to court, without prior application to the Ombud Service. The dispute in this matter involved alterations to a unit that, according to the trustees, were inappropriate and had been made without the necessary permission from the body corporate.[98]

While the court found in favour of the body corporate, it also elected to withhold a cost order,[99] finding that one of the central functions of the CSOSA was precisely to offer an affordable method of resolving disputes in community schemes.[100] This affordability intention was also confirmed in *Community Schemes Ombud Service v Stonehurst Mountain Estate Homeowners Association*,[101] where the court held that the Ombud Service

92 *Evergreen Property Investments v Messerschmidt* 2019 3 SA 481 (GP).
93 *Evergreen Property Investments v Messerschmidt* 2019 3 SA 481 (GP) para 25.
94 *Waterford Estate Homeowners Association v Riverside Lodge Body Corporate* (24576-2020) [2024] ZAGPJHC 192 (27 February 2024).
95 *Waterford Estate Homeowners Association v Riverside Lodge Body Corporate (24576-2020) [2024] ZAGPJHC 192 (27 February 2024) para 36.*
96 *Promotion of Administrative Justice Act 3 of 2000; Waterford Estate Homeowners Association v Riverside Lodge Body Corporate (24576-2020) [2024] ZAGPJHC 192 (27 February 2024) para 30.*
97 *Coral Island Body Corporate v Hoge* 2019 5 SA 158 (WCC) (hereafter *Coral Island Body Corporate*).
98 *Coral Island Body Corporate* para 1.
99 *Coral Island Body Corporate* para 10.
100 *Coral Island Body Corporate* para 9.
101 *Community Schemes Ombud Service v Stonehurst Mountain Estate Homeowners Association* (12399/2021) [2022] ZAWCHC 126 (17 June 2022).

and its employees, particularly the Chief Ombud, regional and deputy ombuds as well as adjudicators, cannot be held liable for legal costs where they perform their statutory duties in good faith.[102]

It stands to reason, therefore, that the affordability intention of the Ombud Service would be undermined if "the courts were indiscriminately to entertain and dispose of matters that should rather have been brought under the Ombud Act".[103] For this reason the court in *Coral Island* deemed the trustees' decision to seek relief from the high court instead of the Ombud Service as inappropriate[104] and encouraged the judiciary to use its discretion when making cost orders to discourage such applications in future.[105]

4.4 Lack of standardised process to appeal adjudication orders

Section 57 of the CSOSA gives a party who is dissatisfied with an adjudicator's order a right of appeal, although only on a question of law, provided that such an appeal is made within 30 days after such an order is made. Yet the CSOSA fails to elaborate on the process to be followed when such an appeal is lodged. As a result, the appeal process has seen significant change and has been hotly debated over the years.[106]

In *Avenues v Shmaryahu* the court took the opportunity to lay down a procedure for section 57 appeals, noting that such a procedure was neither provided for by the CSOSA nor by the rules of court.[107] The court held that section 57 appeals should be brought to court on a notice of motion supported by affidavits, which a sheriff should serve on the respondent parties, being both the adjudicator and the Ombud Service.[108]

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102 *Community Schemes Ombud Service v Stonehurst Mountain Estate Homeowners Association* (12399/2021) [2022] ZAWCHC 126 (17 June 2022) paras 20 and 21; Community Schemes Ombud Service 2023 https://csos.org.za/wp-content/uploads/2023/11/CSOS-AR-22-23-web-file-1-final-printed.pdf 34.

103 *Coral Island Body Corporate* para 10.

104 *Coral Island Body Corporate* para 11.

105 *Coral Island Body Corporate* para 10; Paddock 2019 https://club.paddocks.co.za/wp-content/uploads/2017/08/Coral-Island-Body-Corporate-v-Hoge-More-Questions-than-Answers.pdf. This was also confirmed in *Heathrow Property Holdings 33 CC v Manhattan Place Body Corporate* 2022 1 SA 211 (WCC); *Wingate Body Corporate v Pamba* (33185/2021) [2022] ZAGPPHC 46 (21 January 2022); *Prag v The Trustees for the Time Being of the Mitchell's Plain Industrial Enterprises Sectional Title Scheme Body Corporate* 2021 5 SA 623 (WCC); *The Body Corporate of the Sorronto Sectional Title Scheme, Parow v Koordom* 2022 6 SA 499 (WCC).

106 Freitas dos Santos 2020 https://www.paddocks.co.za/paddocks-press-newsletter/the-evolution-of-the-csos-appeal-procedure/.

107 *Avenues v Shmaryahu* para 25.

108 *Avenues v Shmaryahu* para 26.

Consequently, the Ombud Service issued the Practice Directive of 2019 to give effect to the procedure laid down by the court.[109]

The procedure was followed in subsequent appeals to the high court, including *Body Corporate of Durdoc Centre v Singh*.[110] This was until *Stenersen and Tulleken Administration CC v Linton Park Body Corporate* (hereafter *Stenersen and Tulleken*)[111] reached the Gauteng local division of the high court and presented a practical dilemma in that the established practice of that division on noting section 57 appeals differed substantially from the procedure laid down in *Avenues v Shmaryahu* and the Practice Directive 1 of 2019. The judge president of the division consequently issued a directive to constitute a full court to determine into which category of appeals a section 57 appeal falls, and how such an appeal should be dealt with.[112] Concluding that a section 57 appeal is an appeal "in the ordinary strict sense … with the proviso that the right of appeal is limited to questions of law only",[113] the court ultimately ordered as follows:

> (a) The appeal should be brought by way of notice of appeal where the grounds of appeal are set out succinctly.
>
> (b) The notice should be served on the respondent parties by the Sheriff.
>
> (c) Both the adjudicator and CSOS [Community Schemes Ombud Service] should be cited as respondents.
>
> (d) While the adjudicator or CSOS might be expected to abide the judgment of the court, nothing precludes them from filing a report for the court in respect of any aspect of law which they might consider to be helpful to the court.[114]

Barely a year later, though, the court in *Kingshaven Homeowners' Association v Botha* (hereafter *Kingshaven*)[115] rejected the procedure adopted in *Stenersen and Tulleken*[116] "with an eye to practicality".[117] According to the *Kingshaven* court, *Stenersen and Tulleken*'s conflation of the condition that section 57 appeals may relate to questions of law only and the opinion that a section 57 appeal is an ordinary appeal was a contradiction in terms. Appeals limited to questions of law, the *Kingshaven* court argued, could by their very nature not be considered appeals "in the ordinary strict sense", as they did not involve the re-hearing of merits or the

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109 Practice Directive of 2019 para 34.
110 *Body Corporate of Durdoc Centre* para 15.
111 *Stenersen and Tulleken Administration CC v Linton Park Body Corporate* 2020 1 SA 651 (GJ) (hereafter *Stenersen and Tulleken*).
112 *Stenersen and Tulleken* paras 8-9.
113 *Stenersen and Tulleken* para 42.
114 *Stenersen and Tulleken* para 45.
115 *Kingshaven Homeowners' Association v Botha* (6220/2019) [2020] ZAWCHC 92 (4 September 2020) (hereafter *Kingshaven*).
116 *Kingshaven* para 14.
117 *Kingshaven* para 15.

introduction of additional evidence or factual information.[118] Arguing from this premise, the court suggested that the notice-of-motion procedure initially laid down in *Avenues v Shmaryahu* and the Practice Directive 1 of 2019 (as opposed to the notice-of-appeal procedure indicated by *Stenersen and Tulleken*) remained better suited for the bringing to court of a section 57 appeal.[119] A notice of motion, the court said, would not only allow all relevant points of law to be better defined through the exchange of affidavits,[120] but would also afford a chance to provide information on how and by when parties who wish to oppose the appeal can respond.[121]

Technically the *Stenersen and Tulleken* ruling had to repeal the *Avenues v Shmaryahu* procedure reflected in the Practice Directive of 2019.[122] However, in light of the comments made in *Kingshaven*, it is unclear whether this will happen. The Chief Ombud has yet to issue a new practice directive reflecting the preferred procedure for noting section 57 appeals.

In the meantime the KwaZulu-Natal division of the high court, based on the decision in *Ellis v Trustees of Palm Grove Body Corporate*,[123] issued a practice directive[124] to standardise its procedure in respect of section 57 appeals. This directive took effect in April 2022.[125] In essence, therefore, three divisions of the high court each currently follow their own approach, which is lamentable. An encouraging sign, however, was that the court in *Silver Lakes Homeowners Association v Leonard*[126] allowed the appeal to be heard even though it had not been brought by way of a notice of motion supported by affidavits. This more lenient approach is perhaps the best way forward until the Supreme Court of Appeal provides clarity on this "inter-judicial debate".[127]

118 *Kingshaven* para 13.
119 *Kingshaven* paras 19-20.
120 *Kingshaven* para 21.
121 *Kingshaven* paras 17 and 23.
122 Practice Directive of 2019 para 34.2.
123 *Ellis v Trustees of Palm Grove Body Corporate* (2293/2020P) [2021] ZAKZPHC 97 (7 December 2021).
124 KwaZulu-Natal Division of the High Court 2022 https://www.judiciary.org.za/images/Directives/Directives_-_April_2020/High_Court_of_South_Africa/Kwazulu-Natal_Division/Practice_Manual_of_the_Kwazulu-Natal_Division_of_the_High_Court.pdf para 39. The court also directs the length of the founding and opposing affidavits and the report by the adjudicator.
125 Community Schemes Ombud Service 2023 https://csos.org.za/wp-content/uploads/2023/11/CSOS-AR-22-23-web-file-1-final-printed.pdf 33.
126 *Silver Lakes Homeowners Association* para 4.
127 Di Palma 2023 https://www.stsolutions.co.za/wp-content/uploads/2023/05/STS-Comprehensive-Commentary-on-CSOS-Appeals-in-terms-of-s-57-of-the-CSOS-Act-May-23.pdf 21.

4.5 A final word on the Ombud Service's practical challenges

As the CSOSA has been in effect only since 2016, its implementation will still pose some practical challenges. Periodic errors in applications made to the Ombud Service, such as in the type of relief sought, should be expected. Yet the fact that these errors appear to go undetected from the lodging of the application up until the issuing of an adjudication order raises questions as to the training received by the Service's staff.

In addition, the murkiness around the procedure for bringing section 57 appeals could have been avoided had the CSOSA laid down a procedure. The different approaches suggested by the Practice Directive of 2019 (as per *Avenues v Shmaryahu* and *Stenersen and Tulleken*, along with the comments made in *Kingshaven*, attest to an ongoing debate between the divisions of the high court. The fact that the KwaZulu-Natal division has since also published its own practice directive indicates that there is still a long way to go towards a standardised system.

According to its 2022/23 annual report, the Ombud Service had at that point resolved 6 008 disputes, 97% of which within 90 days.[128] Undoubtedly, therefore, the Service helps relieve the burden on our courts. The report further states that the backlog for 2020/21 was eradicated by the appointment and training of additional adjudicators, while quality assurance adjudicators were also employed to "assure compliance with prescribed periods and to provide legal-technical analysis".[129] Moreover, the report makes mention of a "Knowledge and Management Project" to address the quality of dispute assessment, conciliation and adjudication, and also refers to the appointment of case management officers to assist with the general assessment of the dispute resolution process.[130]

However, for 2022/23 a total of 44 of the disputes handled by the Ombud Service were appealed in court: Eleven orders were set aside, 4 were upheld, 6 matters were withdrawn and 23 were still pending.[131] So while the existing interventions to improve the Service are commendable, one does wonder whether alternative, more far-reaching measures are not perhaps required. In this regard, comparing the Ombud Service's dispute resolution

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128 Community Schemes Ombud Service 2023 https://csos.org.za/wp-content/uploads/2023/11/CSOS-AR-22-23-web-file-1-final-printed.pdf 8; see 47 for a classification of matters in terms of section 39.

129 Community Schemes Ombud Service 2023 https://csos.org.za/wp-content/uploads/2023/11/CSOS-AR-22-23-web-file-1-final-printed.pdf 48.

130 Community Schemes Ombud Service 2023 https://csos.org.za/wp-content/uploads/2023/11/CSOS-AR-22-23-web-file-1-final-printed.pdf 52.

131 Community Schemes Ombud Service 2023 https://csos.org.za/wp-content/uploads/2023/11/CSOS-AR-22-23-web-file-1-final-printed.pdf 47.

system under the CSOSA with a comparable system abroad might prove useful.

5 A comparison between dispute resolution under the CSOSA and under New South Wales's *Strata Schemes Management Act*

In the consultative stages of the drafting of the CSOSA, New South Wales's law relating to sectional titles was cited as among the most comparable to South Africa's.[132] Therefore, a comparison between dispute resolution under that jurisdiction's *Strata Schemes Management Act*[133] and under the CSOSA could potentially hold valuable lessons for improving the current South African system.

At the outset, though, it is important to keep in mind that while the CSOSA established the Ombud Service specifically to deal with community scheme disputes,[134] the *Strata Schemes Management Act* did not create an institution dedicated exclusively to hearing strata title disputes. Instead strata title disputes are resolved by application to two existing institutions: the Department of Fair Trading and the Civil and Administrative Tribunal.[135]

5.1 Internal resolution of disputes

Upon inspection of the provisions relating to dispute resolution in the *Strata Schemes Management Act*,[136] the first notable contrast with the CSOSA is the inclusion of a section dedicated explicitly to internal dispute resolution.[137] The New South Wales law provides the owners' corporation with the option of establishing an internal dispute resolution procedure to resolve disputes between "one or more owners of lots in the scheme, other interested persons, the owners' corporation, the strata committee, the strata managing agent and the building manager".[138] Yet attempting to resolve a dispute through internal dispute resolution is not compulsory.[139] The CSOSA, on the other hand, does not contain a specific section dedicated to internal dispute resolution, but the Practice Directive of 2019 does require an attempt at internal dispute resolution before relief may be sought from

132 Van der Merwe *Sectional Titles, Share Blocks and Time-sharing* para 18.1.3.
133 *Strata Schemes Management Act* 50 of 2015 (hereafter the *Strata Schemes Management Act*).
134 Sections 3(1) and 4(1)*(a)* of the CSOSA.
135 NSW Government Fair Trading date unknown https://www.fairtrading.nsw.gov.au /housing-and-property/strata-and-community-living/community-and-neighbourhood-schemes/resolving-disputes-and-mediation.
136 Part 12 of the *Strata Schemes Management Act*.
137 Section 216 of the *Strata Schemes Management Act*.
138 Section 216(1) of the *Strata Schemes Management Act*.
139 Section 216(2) of the *Strata Schemes Management Act*.

the Ombud Service.[140] In fact, the CSOSA goes even further, empowering an adjudicator to demand proof from an applicant that internal dispute resolution was unsuccessful.[141]

5.2 First avenue for external dispute resolution

The first avenue for external dispute resolution provided for by the *Strata Schemes Management Act* is mediation through the secretary of the Department of Fair Trading.[142] As discussed earlier, the first avenue stipulated in the CSOSA is conciliation,[143] although disputes are often mediated by an ombud for a specific sector.[144]

A significant difference between the two acts is that unlike the *Strata Schemes Management Act,* which contains extensive provisions on mediation, information on conciliation in the CSOSA is relatively sparse apart from the provisions of section 47. However, this is remedied to a fair degree by the information about conciliation contained in the Practice Directive of 2019.[145] Moreover, the Department of Fair Trading has never required payment to conduct mediation, whereas up until the implementation of the Amendment to Practice Directive of 2019, the Ombud levied a fee for conciliation.[146]

Yet the two acts also share several similarities. Both the *Strata Schemes Management Act* and the CSOSA read with the Practice Directive of 2019 provide for the limitation of relief sought in applications to the secretary or the Ombud Service respectively.[147] Both stipulate that parties to mediation/conciliation may not be represented by another person at the proceedings,[148] and that any information or evidence presented during mediation/conciliation shall be inadmissible in subsequent proceedings.[149] In addition, the liability of mediators/conciliators for their conduct during the respective proceedings is limited, provided that they acted in good faith.[150]

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140 Practice Directive of 2019 para 9.

141 Section 40(c) of the CSOSA.

142 Division 2 of the *Strata Schemes Management Act*; Pienaar and Horn *Sectional Titles* 235-236.

143 Section 47 of the CSOSA.

144 Pienaar and Horn *Sectional Titles* 235.

145 Practice Directive of 2019 paras 16-20.

146 NSW Government Fair Trading date unknown https://www.fairtrading.nsw.gov.au /housing-and-property/strata-and-community-living/community-and-neighbourhood-schemes/resolving-disputes-and-mediation; Amendment to Practice Directive of 2019 para 2.1.

147 Section 218 of the *Strata Schemes Management Act*; Practice Directive of 2019 para 7.1.

148 Sections 220 and 257A of the *Strata Schemes Management Act*; s 52 of the CSOSA; Practice Directive of 2019 para 17.4.

149 Section 223 of the *Strata Schemes Management Act*; Practice Directive of 2019 para 19.6.

150 Section 225 of the *Strata Schemes Management Act*; s 33 of the CSOSA.

Finally, an agreement made during mediation/conciliation can be made an order – in New South Wales, an order of the Civil and Administrative Tribunal, and in South Africa, an adjudication order.[151]

5.3 Second avenue for external dispute resolution

As the second avenue for dispute resolution, the *Strata Schemes Management Act* provides for dispute resolution by the Civil and Administrative Tribunal, which may choose to resolve a dispute by conciliation and a hearing, or a directions hearing, depending on the relief sought.[152] As explained earlier, the CSOSA allows for adjudication by the Ombud Service.

5.3.1 Application for dispute resolution

A noteworthy similarity between applying to the New South Wales Tribunal and referring a dispute for adjudication by the South African Ombud Service is that both the *Strata Schemes Management Act* and the CSOSA require that a prior attempt should have been made to resolve the dispute – by mediation in terms of the former,[153] or by conciliation in terms of the latter.[154]

Nevertheless, while the *Strata Schemes Management Act* contains exceptions to the requirement of prior mediation, the CSOSA does not allow for exceptions to the requirement of prior conciliation. Again, however, this gap is filled by the Practice Directive of 2019.[155]

The specific exceptions are a further area of difference between the two acts. The exceptions relating to prior mediation appear to be limited to those contained in the *Strata Schemes Management Act*. Those relating to prior conciliation, in turn, are up to the discretion of the Ombud, having considered the factors prescribed in the Practice Directive of 2019.[156]

5.3.2 Relief that may be sought

In terms of the orders that may be made or the relief that may be sought under the two Acts, the *Strata Schemes Management Act* does not contain a section specifically setting out the various categories of disputes and the relief available under each. However, on the whole the *Strata Schemes Management Act* and the CSOSA provide for very similar types of relief. As expected, though, there are some orders contained in the one that are not

151 Section 230(1) of the *Strata Schemes Management Act*; Practice Directive of 2019 para 16.3.

152 NCAT 2023 https://ncat.nsw.gov.au/documents/factsheets/ccd_factsheet_strata_schemes.pdf.

153 Section 227(1) of the *Strata Schemes Management Act*.

154 Section 48 of the CSOSA.

155 Practice Directive of 2019 para 21.

156 Practice Directive of 2019 para 21.5.

provided for in the other. For instance, section 237 of the *Strata Schemes Management Act* makes provision for an order for the appointment of a managing agent, whereas the CSOSA contains no such provision. The CSOSA in turn provides for an order directing the managing agent to comply with the terms of the agent's contract of employment,[157] while the *Strata Schemes Management Act* does not contain such a provision. In some instances these differences are because the *Strata Schemes Management Act* deals with the managerial aspects of strata schemes as well as dispute resolution. The CSOSA, on the other hand, deals solely with dispute resolution, while managerial aspects are governed by the STSMA.

Another difference in terms of the available relief is that, unlike the CSOSA, the *Strata Schemes Management Act* provides for interim orders in urgent matters.[158] This apparent shortcoming in the South African Act, however, is partly remedied by the Practice Directive of 2019, which provides for an application to be heard on an urgent basis.[159]

5.4 Appeals

In contrast to the CSOSA's provision for appeal to the high court – albeit somewhat muddied at present[160] – the *Strata Schemes Management Act* contains no appeals provisions.

Yet New South Wales's *Civil and Administrative Tribunal Act*[161] does provide for an internal appeals mechanism, conducted by the Tribunal itself.[162] Like CSOSA section 57 appeals, internal appeals may be made on questions of law. Appeals on the merits of a decision may be made only if leave to appeal is granted by the Appeals Panel.[163] Should the party remain dissatisfied after an appeal to the Tribunal, the party may appeal to the high court.[164]

5.5 Structural differences

The most significant difference between the two acts, however, does not stem from their substantive content, but rather from their general structure.

As mentioned above, unlike the CSOSA, the *Strata Schemes Management Act* does not contain a specific section that lists the various categories of disputes and the available relief under each. As a result the multiple forms

157 Section 39(5)*(a)* of the CSOSA.
158 Section 231 of the *Strata Schemes Management Act*.
159 Practice Directive of 2019 para 33.
160 See para 4.4 of this article.
161 *Civil and Administrative Tribunal Act* 2 of 2013.
162 Sections 32 and 80 of the *Civil and Administrative Tribunal Act* 2 of 2013.
163 NCAT 2022 https://ncat.nsw.gov.au/how-ncat-works/appeal-an-ncat-decision.html.
164 Pienaar and Horn *Sectional Titles* 236; ss 82-83 of the *Civil and Administrative Tribunal Act* 2 of 2013.

of relief that may be sought in terms of the *Strata Schemes Management Act* are dispersed throughout the text under different sections. However, the New South Wales law does include a useful table that lists the various orders that may be sought, along with an indication of who may seek these orders and a reference to the specific section that provides for the order.[165]

Another notable contrast with the CSOSA is that the *Strata Schemes Management Act* does not provide for the publication of practice directives or similar instruments that are to be read in conjunction with the empowering legislation. One could argue that the inclusion of practice directives provides some flexibility and scope, for instance to include more forms of relief to keep pace with the changing landscape of sectional title schemes, or to change how appeals should be lodged, without having to constantly make legislative amendments.

5.6 A final word on lessons to be learnt from New South Wales

Many of the notable differences between the *Strata Schemes Management Act* and the CSOSA can be attributed to the fact that the former was drafted to deal with both the managerial aspects and dispute resolution in strata schemes. The CSOSA, on the other hand, is dedicated to dispute resolution.

That being said, certain provisions in the *Strata Schemes Management Act* are worth considering for potential replication in the CSOSA. A provision relating to interim orders, for instance, would be beneficial, as would be an additional, internal avenue for appeals. Potential benefits of the latter include reduced costs compared to the costs involved in high court appeals, as well as lightening the caseload of our courts.

6 Recommendations

The dispute resolution procedure introduced by the CSOSA is still relatively new and could still be fine-tuned to prevent sectional title disputes from ending up in court. To overcome the practical challenges identified earlier, and based on the comparison with New South Wales's *Strata Schemes Management Act*, some potential improvements include:

- introducing more stringent requirements for the completion of training provided to adjudicators and other staff of the Ombud Service;
- either amending the CSOSA or issuing a practice directive to include a provision that deters applications to a court to resolve disputes that can and should be resolved by the Ombud Service;[166] and

165 Part 12 of the *Strata Schemes Management Act*.
166 Reflecting the decision *Coral Island Body Corporate* para 10.

- either amending the CSOSA or issuing a practice directive to create an internal appeals mechanism, to be conducted by the Ombud Service itself, before appeals are lodged with the high court.[167]

7 Conclusion

The approach to sectional title disputes in South Africa has changed dramatically over the years – from litigation, to the arbitration mechanism introduced by management rule 71, to referral to the Ombud Service created by the CSOSA.

The two-stage (conciliation and adjudication) dispute resolution mechanism provided by the Ombud Service has effectively reduced the number of sectional title disputes reaching our courts. It also saves applicants time and money. Ultimately, the dispute resolution procedure introduced by the CSOSA resolves more disputes than it does not.

Yet case law suggests certain practical challenges in the implementation of the CSOSA, and some shortcomings in the operation of the Ombud Service. The recommendations above could help streamline the Service into an even more suitable and effective alternative for resolving sectional title disputes.

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167 Similar to the internal appeal mechanism contained in s 32 of the *Civil and Administrative Tribunal Act* 2 of 2013.

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List of Abbreviations

CSOSA	Community Schemes Ombud Service Act 9 of 2011
JIDS	Journal of International Dispute Settlement
NCAT	New South Wales Civil and Administrative Tribunal
SALJ	South African Law Journal
STA	Sectional Titles Act
Stell LR	Stellenbosch Law Review
STSMA	Sectional Titles Schemes Management Act 8 of 2011
TSAR	Tydskrif vir die Suid-Afrikaanse Reg / Journal of South African Law