ESSENTIALS OF A VALID TRUST REVISITED IN THE LIGHT OF

Khabola v Ralithabo [2011] ZAFSHC 62*

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SUMMARY

The trust is universally recognised and used. It is generally accepted that trust deeds meet the basic requirements. However, it is not always that simple and the courts are repeatedly forced to take deeds of trust under scrutiny. In such cases the court has to rule on the validity of the trust, the locus standi of the parties, trust administration, the intent of the parties or what the implications of an invalid trust are for previous and current agreements. Similar problems arose in Khabola v Ralithabo. The authors discuss this verdict and show that there is still much uncertainty on how certain trust aspects have to be dealt with, and emphasise the importance of testing every trust deed according to the essential requirements of a valid trust.

KEYWORDS: trust; trust deed; valid trust; basic requirements.

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