

Nomlayo Mabhena-Mlilo

Director



Nomlayo Mabhena-Mlilo is a Director in our Dispute Resolution practice. She focuses on commercial litigation with specific attention to property and property finance-related litigation for major financial institutions. She further focuses on project finance litigation for State-Owned Enterprises, and has experience in petroleum franchising litigation. Her practice extends to administrative law, business rescue, and insolvency law. Highlight work for Nomlayo includes obtaining interdicts; assisting with private enquiries into the trade, dealings, affairs, or property of insolvent companies unable to pay their debts to development corporations, and reviewing proceedings in respect of irregular termination of tenders awarded to various entities by public bodies for the supply of personal protective equipment to the state.

About Nomlayo

Nomlayo joined Cliffe Dekker Hofmeyr as a Candidate Attorney in 2017 and has gained experience in the Dispute Resolution, Employment as well as the Real Estate and Conveyancing practices. Nomlayo was appointed as an Associate in 2019 and promoted to Senior Associate in 2022. Nomlayo was appointed Director in 2024.

Credentials

Education

- LLB, University of Pretoria
- Admitted as an attorney: 2019
- Admitted as a conveyancer: 2019

News

Procurement integrity and general procurement requirements

Public procurement is one of the government activities highly vulnerable to corruption. The financial interests at stake, the volume of transactions and the close interaction between public and private sectors in the awarding of public contracts all pose risks to the integrity of the procurement process. The findings of the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector including Organs of State all bear testimony to this fact.

Contact Nomlayo

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[Nomlayo on LinkedIn](#)

Expertise

[Dispute Resolution](#)

[Business Rescue, Restructuring & Insolvency](#)

Location

Johannesburg

Language

English

The establishment of the Public Procurement Tribunal

The complex public procurement system in South Africa has been fertile ground for litigation over many years, and to say that law reports are replete with cases dealing with public procurement would be an understatement. Litigation in this context almost invariably brings significant delays in public procurement. Those delays cost money and cause much frustration and inefficiency within public procurement, and are a significant contributor to the lack of service delivery. The unnecessary complexity in the public procurement regulatory framework often results in confusion that invariably leads to disputes.

The interplay between set-off and post-liquidation debt

Can a creditor that has realised its security in terms of section 83(3) of the Insolvency Act, 1936 claim set-off of a post-liquidation debt owed to it by an insolvent estate or company in liquidation against the amount of the proceeds of the realisation of the secured property that it is obliged to pay to the liquidator in terms of section 83(10) of the Insolvency Act? The High Court indicated that the answer is "No" and, inter alia, ordered the creditor to pay the amount of the net proceeds of the realised security to the joint liquidators. The interplay between set-off and post-liquidation debt was therefore considered by the Supreme Court of Appeal in *Emontic Investments (Pty) Ltd v Bothomley NO and Others* (1123/2022) ZASCA 1 (9 January 2024).

The test for insolvency revisited: Setting aside liquidation proceedings

In the case of *The Commissioner for the South African Revenue Service v Nyhonyha and Others* (1150/2021) ZASCA 69 (18 May 2023) the Supreme Court of Appeal (SCA) was confronted with the question of whether the High Court erred in setting aside an order for the liquidation of Regiments Capital (Pty) Ltd (Regiments) in circumstances where the conditions that led to the order for liquidation had since changed.

A prudent question is one half of wisdom: The consequences of business email compromise for banks and attorneys

It was Sun Tzu who famously said, "He who is prudent and lies in wait for an enemy who is not, will be victorious." However, what happens to an attorney who is sufficiently prudent to confirm the banking details of a recipient but fails to question a change in the previously provided banking details of the same recipient and then falls prey to fraudsters? This question was answered by the full bench of the High Court in the case of *Hartog v Daly and Others* (A5012/2022) ZAGPJHC 40; 2 All SA 156 (GJ) (24 January 2023).

Videos

Strides, struggles and solutions for women in South Africa

"Be resilient, the world is your oyster", says Nomlayo Mabhena-Mlilo, Senior Associate in our Dispute Resolution practice. Nomlayo recently formed part of a panel on SABC 3's *Unfiltered*, to unpack the strides, struggles and solutions for women in South Africa.

Legalities and laws surrounding home ownership in South Africa

Nomlayo Mabhena, Associate in our Dispute Resolution practice appeared on *Daily Thetha*, an educational talk show on SABC 1 that explores youth issues, as well as issues of national importance. She formed part of a panel that discussed the legalities and laws surrounding home ownership in South Africa, especially when there are disputes involved. The episode focused on the notion of adequate shelter by looking at navigating home ownership as black South Africans.

Podcasts

Nomlayo Mabhena-Mlilo discusses the future of the legal profession and access to justice in South Africa

In this episode of the CDH Women Empowerment podcast series, we speak to Nomlayo Mabhena-Mlilo, a Senior Associate in the Dispute Resolution practice.

Nomlayo Mabhena named the youngest black conveyancer

Dispute Resolution Associate, Nomlayo Mabhena, was recently named the youngest black female attorney to be admitted as a conveyancer. She joined SAFM's *Late Night Conversation* with Patricia Ntuli to discuss her achievement and to unpack the complexities of transformation within the real estate and law industries.

[All news by Nomlayo Mabhena-Mlilo →](#)

