

“More bills than thrills; interest in the *In duplum* rule”

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According to a recent study by Africa-focused distribution company CFAO, Africa’s middle-class have more “bills than thrills” and carry significant debt. We, as Batswana, are no exception to these findings. The trend, more often than not, is to ignore debts. However, far from disappearing, interest on the capital grows exponentially and before long debtors are straddled owing far greater sums than had the debt been tackled head on. How far can this interest run for? The answer to this lies in the *in duplum* rule.

The *in duplum* rule is based on considerations of public policy; it is a well established principle of our law providing that interest stops running on a debt when unpaid interest equals the outstanding capital. For perspective, *in duplum* emerged in Roman Law as one of the methods to limit the interest which could be claimed by moneylenders, providing a measure of protection to credit receivers, and the rule exists for similar reasons today. It was carried through to Roman-Dutch Law and now our courts, through a long line of reported cases, have adopted it in response to the common law’s inability to provide a workable mechanism for setting limits on the interest that can accrue on a debt.

Debtors leave creditors out of pocket by defaulting but this does not mean they should be crushed by the never-ending accumulation of interest on an outstanding debt. In any event, a rehabilitated former debtor is a repeat customer for the creditor. The *in duplum* rule has an overarching purpose in aiming to aid debtors who already find themselves in an adverse financial position.

Before embarking on another thrill without settling the bill, one needs to be aware that this rule is not intended to punish the creditor or absolve the debtor from their ongoing obligations. When, due to payment, unpaid interest drops

below the equivalent of the outstanding capital, interest again begins to run until it equals the amount of the outstanding capital.

The rule is yet to be codified into our laws but its continued adoption by our courts has been guaranteed. Credit providers need to be vigilant of consumers not servicing their debts and should take the appropriate legal action against such consumers to avoid situations where the *in duplum* rule comes into play.

At M&K Financial Recoveries we focus on early stage delinquency. In our experience, the less time that has passed since the original default, the more likely the debtor is to settle in full – an outcome that is beneficial to all parties concerned. We aim to promote habits that negate the need for *in duplum* at the same time as inverting the thrill to bill ratio.

