OUBAS EPISODE 2

CAN INTEREST GROW FOREVER?

HAVE YOU EVER SEEN A DEBT CLAIM IN WHICH INTEREST OR OTHER CHARGES APPEAR TO OVERWHELM THE CAPITAL? WHICH IN DUPLUM RULE APPLIES, WHAT IS THE GENUINE OUTSTANDING CAPITAL, AND WHAT RECORDS SUPPORT THE CALCULATION? CHECK THE FIGURES BEFORE REACHING A CONCLUSION. HAS THIS HAPPENED TO YOU? WHAT DID YOU DO?

CAN INTEREST GROW FOREVER?

Understanding Statutory and Common-Law In Duplum - Who Is Protected and Why It Matters

Estimated Reading Time: 7-8 minutes

Introduction

Welcome back to OUBAS.

In **Episode 1**, we introduced the **Mystery Bank Statement** and invited you to examine it.

Thank you to everyone who shared comments and observations.

The purpose of that exercise was not to reach conclusions.

It was to encourage readers to think critically about bank statements, financial records and the importance of verification.

Today we build on that foundation by exploring two related protections against uncontrolled interest growth:

the statutory and common-law in duplum rules.

Understanding the Two In Duplum Rules

South African law contains statutory and common-law versions of the in duplum rule.

The first questions are: who is the consumer, what kind of agreement is involved, which provisions of the National Credit Act apply, and which in duplum rule governs?

For a natural-person consumer whose agreement falls under the NCA, section 103(5) limits the aggregate of the amounts listed in section 101(1)(b) to (g) that accrue while the consumer remains in default. They may not exceed the unpaid principal debt at the time of default.

For a juristic-person consumer, section 6(d) excludes Chapter 5 Part C of the NCA, which includes section 103(5). The applicable interest-limiting protection is therefore the common-law in duplum rule-even where some other provisions of the NCA apply. The common-law rule is founded on public policy and generally limits unpaid arrear interest when it reaches the outstanding capital; it does not aggregate the full statutory basket of fees, insurance and collection charges.

The threshold rules determine whether the NCA applies generally to a juristic person. At the time the agreement is made, a juristic person at or above the current R1 million asset-value or annual-turnover threshold is excluded. A juristic person below that threshold is also excluded if the agreement is a large agreement-currently a mortgage agreement or another qualifying credit transaction with principal debt of at least R250,000. A below-threshold juristic person entering a small or intermediate agreement may receive limited NCA protection, but still not section 103(5).

- Simplified statutory example for an NCA-covered natural-person consumer: if the genuine unpaid principal debt at default is R100,000,
- the section 103(5) amounts accruing during that continuous period of default may not, in aggregate, exceed a further R100,000.

In that simplified statutory example, the principal plus the capped section 103(5) amounts total R200,000 while that continuous default persists. The correct calculation still depends on lawful payment allocation, the true principal at default, the applicable agreement and complete account records.

The Case Study

This episode introduces the **Interest Claim Challenge**.

Imagine you are reviewing a financial claim.

Rather than accepting the figures immediately, ask yourself:

- What is the capital amount?
- What is the interest amount?
- What fees and charges have been added?
- Does the calculation appear consistent?
- What records would help explain the figures?

The purpose is not to speculate.

The purpose is to understand how financial claims are constructed before reaching conclusions.

A payment total alone does not reveal the answer. Payments may have been allocated among interest, fees and principal. The forensic question is: what was the genuine outstanding principal at default, and was every allocation lawful and supported?

For an NCA-covered natural-person consumer, if R1,000,000 was advanced and R750,000 was lawfully applied entirely to principal before default, the remaining principal would be R250,000 and the simplified statutory total would be R500,000. If only R250,000 was lawfully applied to principal, the remaining principal would be R750,000 and the simplified statutory total would be R1,500,000.

These examples explain section 103(5) only. They must not be applied to a juristic-person facility. They also do not determine whether a particular payment allocation, interest calculation, fee or charge is lawful and supported.

Why This Matters

Many people borrow money without fully understanding how interest works.

Understanding concepts such as:

- capital;
- interest;
- fees;
- regulated charges; and
- consumer protection,

helps people make better-informed financial decisions.

Knowledge allows consumers to ask informed questions and understand financial documents with greater confidence.

OUBAS Analysis

OUBAS believes that financial literacy is one of the strongest forms of consumer protection.

People should understand not only **what** they owe, but also **how** the amount has been calculated.

Transparent calculations and understandable financial records promote confidence between consumers and financial institutions.

Understanding the law empowers citizens to participate more confidently in financial decisions.

OUBAS Reform Proposal

OUBAS encourages:

- greater public education on consumer credit law;
- clearer explanations of interest calculations;
- stronger financial literacy programmes in schools and communities;
- continuous improvement in the way financial institutions explain borrowing costs.

Knowledge benefits both consumers and credit providers.

Key Lessons

After reading this episode you should understand that:

- statutory and common-law in duplum are distinct rules, and the consumer and agreement must be identified;
- section 103(5) applies to qualifying natural-person agreements, not juristic-person consumers;
- common-law in duplum governs the interest cap for juristic-person consumers, including where the NCA has limited application;
- transparent calculations promote confidence;
- asking informed questions leads to better financial decisions.

OUBAS Knowledge Check

1. What must be identified before applying an in duplum rule?

☐ The consumer, the agreement, the applicable provisions and the genuine capital figure.

☐ To eliminate all debt.

☐ To prevent borrowing.

☐ To reduce bank profits.

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2. Under section 103(5), what figure forms the basis of the simplified statutory limit?

☐ The unpaid principal debt at the time of default.

☐ Legal costs.

☐ Insurance.

☐ Tax.

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3. Why is it important to understand how interest is calculated?

☐ It helps consumers make informed financial decisions.

☐ It guarantees success in a dispute.

☐ It replaces legal advice.

☐ It removes the need for records.

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4. According to OUBAS, financial literacy begins by:

☐ Understanding how figures are calculated.

☐ Guessing balances.

☐ Ignoring statements.

☐ Memorising legal terms.

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5. What is one of the main messages of this episode?

☐ Knowledge promotes confidence and better financial decision-making.

☐ Interest should never be charged.

☐ Financial records are unnecessary.

☐ Questions should be avoided.

OUBAS Public Sentiment Survey

Help OUBAS understand public experiences.

1. Before reading this episode, did you know that South Africa has statutory and common-law in duplum rules?

○ Yes

○ No

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2. Do you believe financial institutions explain interest calculations clearly?

○ Strongly Agree

○ Agree

○ Neutral

○ Disagree

○ Strongly Disagree

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3. Which financial topic would you most like to understand better?

☐ Interest calculations

☐ Credit agreements

☐ Bank statements

☐ Loan repayments

☐ Consumer rights

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4. Have you ever been surprised by the amount owing on a loan or credit account?

○ Yes

○ No

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5. Should financial literacy be taught more widely in schools?

○ Strongly Agree

○ Agree

○ Neutral

○ Disagree

○ Strongly Disagree

💡 **OUBAS Innovation Challenge**

Imagine you have been asked to redesign a monthly loan statement.

What one improvement would make it easier for ordinary people to understand how interest, fees and repayments affect the amount they owe?

Share your idea with OUBAS.

Outstanding proposals may be developed into future **OUBAS Reform Papers** and discussed by the AAP professional community.

Share Your Experience

The original OUBAS episode invited readers to examine an interest claim and consider:

- the capital amount;
- the interest amount;
- whether anything appeared unusual; and
- which in duplum rule applied and whether the figures appeared consistent with it.

Have you ever struggled to understand how interest was calculated on a loan or credit account?

What information would have helped?

Your experience contributes to the **OUBAS People's Index** and helps improve financial literacy across Africa.

Sources and further reading

National Credit Act 34 of 2005, sections 4(1), 4(2)(c), 6(d), 9(4), 101 and 103(5).

Paulsen and Another v Slip Knot Investments 777 (Pty) Ltd 2015 (3) SA 479 (CC), [2015] ZACC 5.

Nkata v FirstRand Bank Ltd 2016 (4) SA 257 (CC), [2016] ZACC 12.

Continue Your Learning

📚 Visit the **OUBAS Bookstore** for books covering banking, consumer credit, financial literacy, governance, accountability and responsible borrowing.

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Become part of the **Amalgamated African Professionals (AAP).**

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Follow OUBAS for future educational episodes, books, public surveys and research findings.

Every contribution helps build the **OUBAS People's Index**, measuring public understanding, financial literacy and innovative ideas for improving institutions.

Next Episode

Episode 3

The Certificate of Balance Challenge

What is a Certificate of Balance?

What does it tell us?

And what records help explain the figures it contains?

Join us as we continue the journey of learning how to evaluate financial information critically.

OUBAS exists to educate, stimulate informed discussion and inspire practical solutions.

Knowledge grows when it is shared.

Institutions improve when people participate.

The only constant in every successful institution should be innovation and continuous improvement.

Join the conversation. Join AAP. Help build a better Africa.