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# VALUATION INTEGRITY, PROFESSIONAL ACCOUNTABILITY AND EMERGING LIABILITY RISKS IN REAL ESTATE, BANKING AND INVESTMENT TRANSACTIONS

*Lessons from Plan B Properties Pty Ltd v Australian Secured & Managed Mortgages Pty Ltd & Ors [2026] VSC 306 and Recent Kenyan Jurisprudence on Valuer's duty of care*

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## EXECUTIVE SUMMARY

In a significant development for banks, financial institutions, mortgage lenders, pension funds, investment managers, real estate developers, valuation firms, regulators and professional advisers, the Supreme Court of Victoria, Australia, has delivered a landmark judgment reinforcing the legal, regulatory and commercial consequences of defective property valuations.

In *Plan B Properties Pty Ltd v Australian Secured & Managed Mortgages Pty Ltd & Ors [2026] VSC 306*, the Court held a professional valuer liable for substantial investor losses arising from a valuation that materially overstated the value of development land and mischaracterized the risk profile of the underlying lending transaction. The Court found that the valuation methodology was fundamentally flawed and failed to satisfy the standards expected of a competent valuation professional.

The decision is particularly relevant in Kenya and across East Africa, where valuation reports continue to underpin secured lending, project finance, infrastructure investments, pension fund investments, real estate development, insolvency proceedings and asset recovery actions. The judgment also closely aligns with recent Kenyan jurisprudence, including *Gulf African Bank Ltd v*

*Hanif Tours & Travel Agency Limited & 4 Others [2025] KEHC 486 (KLR)*, where the High Court imposed liability upon a valuation firm and a registered valuer for failing to independently verify critical information before issuing a valuation relied upon by a lender.

Taken together, the decisions demonstrate that valuation integrity is no longer a purely technical or professional standards issue. It is now a governance, credit risk, investor protection, fraud prevention and market confidence issue, with potential exposure for valuers, valuation firms, lenders, arrangers, boards, credit committees and professional advisers.

## WHY THIS ALERT MATTERS

Valuations are among the most influential professional opinions in modern commerce. They shape lending decisions, determine collateral values, influence investment strategies, support financial reporting obligations, inform insolvency recoveries and frequently underpin major corporate, infrastructure and real estate transactions.

As Kenya's financial services sector becomes increasingly sophisticated and as investment flows continue to expand across East Africa, the reliability of valuation advice has become more important than ever. Financial institutions, investors and regulators are increasingly scrutinizing the quality of valuation processes, while courts are demonstrating a growing willingness to examine not merely the valuation outcome but also the professional judgment, assumptions, verification procedures and methodologies that produced it.

In this environment, valuation failures are no longer viewed as isolated professional errors. They are increasingly regarded as governance failures capable of exposing institutions, directors, lenders, investors and other professionals to significant legal, regulatory, financial and reputational risk. Consequently, institutions must now implement robust "valuation audit" trails to demonstrate due diligence in the event of future disputes.

## BACKGROUND TO THE PLAN B DECISION

The dispute arose from a syndicated lending arrangement involving approximately AUD 4.25 million advanced to a property developer for the acquisition and development of land. The investment decision was heavily influenced by a valuation that assessed the property at AUD 10 million and characterized the lending risk as low.

Following borrower default and enforcement proceedings, the property ultimately realized approximately AUD 1.65 million upon sale. Independent valuation evidence subsequently assessed the property's value at approximately AUD 1.55 million. The disparity between the original valuation and the actual value became central to the proceedings and ultimately led the Court to conclude that the valuation methodology was fundamentally defective.

The Court consequently awarded damages against the valuer for losses suffered by the investor.

## THE COURT'S KEY FINDINGS

The decision reinforces an increasingly important legal principle: a professional valuation is not merely an opinion regarding value. It is a professional representation carrying with it an implied assurance that the opinion has been formed independently, honestly, competently and upon reasonable grounds.

The Court emphasized that professional expertise carries corresponding responsibilities. Where a valuer presents an opinion to lenders, investors or market participants, there is an implicit representation that accepted professional methodologies have been applied, material risks have been considered, assumptions have been tested and appropriate skill and care have been exercised.

The Court further distinguished between the liability of the professional expert who prepares a valuation and the liability of an intermediary who merely communicates it. While the valuer was held liable, the mortgage broker escaped liability because it had not adopted or endorsed the valuation as its own professional opinion.

This distinction is important for transaction parties. Intermediaries, arrangers, brokers, investment advisers and professionals who

circulate valuation reports should ensure that their communications do not inadvertently adopt, endorse, certify or guarantee the contents of the valuation unless they are prepared to assume that risk. Equally, lenders and investors should not assume that the mere circulation of a valuation report by an intermediary means that the intermediary has independently verified, approved or guaranteed its accuracy.

## VALUATION INTEGRITY AND THE EMERGING GLOBAL STANDARD

The decision reflects a broader international trend towards enhanced scrutiny of valuation practices and increasing accountability for professional advisers whose opinions influence significant financial decisions.

Across major financial centres, courts and regulators are placing greater emphasis on valuation independence, verification, professional skepticism, methodological discipline and transparency. Valuers are increasingly expected to independently verify critical information, challenge unsupported assumptions, rigorously test development projections and clearly disclose limitations, risks and uncertainties.

Importantly, valuation integrity is no longer viewed solely through the lens of professional ethics. It is increasingly recognized as a governance issue with implications for financial stability, investor protection, credit risk management and market confidence.

## THE KENYAN POSITION

Kenyan jurisprudence has evolved in a similar direction.

In *Gulf African Bank Ltd v Hanif Tours & Travel Agency Limited & 4 Others [2025] KEHC 486 (KLR)*, the High Court reaffirmed that professional valuers owe a duty of care to those who rely upon their reports and may be liable where they fail to exercise reasonable professional skill and diligence. The Court found that the valuer failed to independently verify the location and identity of the charged property and imposed liability upon both the valuer and the valuation firm.

The Kenyan decision is especially important because it confirms that valuation negligence may arise not only from an incorrect figure, but also from failure to verify material facts, including the identity and location of the very property being valued. In secured lending, that error can undermine the entire security package and expose the lender to loss where the charged property is inadequate or incorrectly identified.

For Kenya, the combined effect of Plan B Properties and Gulf African Bank is a clear warning: valuation reports relied upon in lending and investment transactions must be supported by independent verification, competent methodology, proper documentation, clear assumptions and a defensible audit trail. Reliance on information supplied by borrowers, developers, agents or interested parties without independent verification may expose the valuer and valuation firm to liability.

## THE GROWING INTERSECTION BETWEEN VALUATION FAILURES, FRAUD AND ASSET RECOVERY

From a Civil Fraud, Asset Recovery & Tracing perspective, valuation failures frequently arise within broader disputes involving fraud, asset dissipation, lender losses, insolvency proceedings and recovery actions.

Inflated valuations may be used to support excessive lending, facilitate fraudulent transactions, misrepresent investment opportunities, conceal financial distress or support improper asset transfers or create the appearance of adequate security where none exists. In such circumstances, valuation reports often become central evidentiary documents linking the misrepresentation to the resulting financial loss.

Increasingly, asset recovery strategies involve not only tracing and recovering assets from borrowers, guarantors or related parties, but also pursuing professional negligence claims against those whose conduct contributed to the loss.

## GOVERNANCE, REGULATORY AND BOARD-LEVEL IMPLICATIONS

The implications of these decisions extend beyond valuation firms.

Banks, pension funds, insurers, investment managers, development finance institutions and corporate boards should increasingly view valuation oversight as a critical component of enterprise risk management.

Institutions should ensure that significant transactions are supported by robust governance frameworks governing valuation procurement, review, challenge and approval. Boards, audit committees, risk committees and credit committees should be prepared to interrogate valuation assumptions and seek independent review where material risks are identified.

The cost of inadequate valuation governance may extend well beyond the transaction itself and may ultimately result in litigation, regulatory scrutiny, financial losses and reputational harm.

**LOOKING AHEAD**

The direction of travel is increasingly clear.

Courts, regulators and market participants are demanding higher standards of professionalism, independence and accountability from valuation professionals. At the same time, institutions that rely upon valuation reports are expected to demonstrate appropriate governance, oversight and risk management.

As lending markets, investment structures and development projects continue to grow in complexity, valuation integrity will remain a critical pillar of financial stability, investor confidence and market transparency.

For Kenya and East Africa, the emerging jurisprudence serves as a timely reminder that valuation reports are not simply technical documents. They are professional representations capable of influencing significant financial decisions and generating substantial legal consequences.

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