Short notes on:

**UNCAPPING THE REQUIREMENTS FOR UNJUSTIFIED ENRICHMENT**

**Introduction**

Objectively speaking, no person must be allowed to get enriched at the expense of another whether by intent or mistake. In principle, when a person has been impoverished without justification, they can institute an action for restitution.

South African law provides relief when one person’s estate is enriched at the expense of another. This relief is called the “Unjustified Enrichment”.

**What does “Unjustified Enrichment “Mean?**

Unjustified Enrichment is when one person’s estate is increased unjustifiably at the expense of another. There are four (4) requirements, namely:

1. **enrichment**;
2. **Impoverishment**
3. without legal cause and;
4. **causality at the cost of someone else.**

An example, are instances where one person transfers electronic funds into the incorrect bank account and the enriched person then receives and uses the money. This commonly occurs in situations involving a breach of contract where one party begins providing goods or services with the expectation of being paid.

**Requirements for Unjustified Enrichment**

**1. Someone must be enriched**-

There has to be an increase in the enriched person’s assets which would not have occurred if there was no act which led to that person being enriched or there was an act which led to the enriched person’s estate not decreasing but it was to the detriment of the impoverished person. Unjustified
Enrichment is not only concerned with the passing of the benefit, but also of maintaining the benefit and also rests on the philosophical foundations of equity and fairness.

2. **Someone must be impoverished**

There must be a decrease or non-increase in assets. Or there must be an increase or non-decrease in liabilities. Every enrichment action must inquire into both the one party’s enrichment and the other party’s impoverishment.

3. **One enriched at the Expense of another**

There must be a causal link between the enrichment and the impoverishment. The enrichment must be at the expense of the person who was impoverished.

4. **Enrichment must have been unjustified**

The enrichment must be unjustified. Enrichment is unjustified when there is no sufficient legal ground for the transfer of value from one estate to the other or the retention of such benefit.

**Conclusion**

It appears that objectively, whether there is a legal ground to justify enrichment, it is a question of fact and does not depend on subjective factors like a mistake on the part of the parties. In South African law, performance can be reclaimed under excusable mistake, especially when the person deposited money under the mistake that the money was due to that bank account.¹

Unjustified Enrichment is a self-correction remedy which promotes fairness when the law does not provide any remedy and its ultimate aim is to balance the interests of individuals and provide restitution where necessary.

For expert Legal advice feel free to contact SchoemanLaw Inc today.

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¹ Jan-Louis Serfontein ‘What is wrong with modern unjustified enrichment law in South Africa?’ De Jure (Pretoria) vol.48 n.2 Pretoria 2015.