

Farida Swanepoel, a young woman who had always lived with her parents, even while she was attending university, finally graduated and started her first job. After working for a few months Farida, with the full agreement of her parents, felt that the time had arrived for her to purchase a home nearer to her workplace as this would substantially reduce the stress of her daily commute. Farida, however, remained rather anxious about the thought of, for the first time, living in a house on her own apart from her parents.

Farida, in due course, noticed an advertisement that had been placed in a community newspaper serving the area where she was interested in purchasing a property. That advertisement was placed by Barry Keys, an estate agent in the service of Ubuntu Estates, a well-known estate agency firm operating in that area. What had particularly caught Farida's eye about the Ubuntu Estates advertisement, however, was the offer, specifically highlighted in bright red in the advertisement, made by Ubuntu Estates to install a free burglar alarm system in any home that was purchased through them.

After discussing the matter with her parents Farida contacted Barry to ascertain whether he was marketing any homes for sale in her preferred suburb, which she believed was particularly safe and stable and, therefore, ideal for her specific needs as a single female. Farida stressed to Barry that she was of a very nervous disposition and, also, that she intended living by herself. Barry reassured Farida there were plenty of suitable homes available in the area meeting her particular needs. He emphasised, though, that these properties would be more expensive than similar houses in other, possibly less desirable, areas. After giving the matter some thought Farida indicated that she was prepared to pay a premium to secure the right home in the right area.

After having inspected several houses in the area with Barry, Farida was finally introduced to a home that she really liked and which she decided to buy. Farida made an offer to purchase that property at the seller's asking price. This offer to purchase was accepted by the seller and the sale to Farida was concluded.

Some weeks later, however, after transfer of the property had been registered in her name, Farida discovered the true reasons why the seller had wanted to move. It transpired that an elderly woman who had lived alone in the next-door house had recently been gruesomely murdered during the course of a home robbery and, in fact, that some of the other homes in the street had also been broken into over the past year. Farida was, furthermore, shocked and distressed to learn that a previous owner of the home, a single woman, had committed suicide in the bathroom by slashing her wrists with a razor blade and that it was general neighbourhood folklore that the house was haunted.

Farida decided to lodge a complaint with the Estate Agency Affairs Board against both Barry and Ubuntu Estates for investigation.

Mr. Digby Harrington-Smythe decided to sell his home which was situated in an exclusive 'gated' area of the city. After undertaking some research Harrington-Smythe decided to grant a selling mandate to Star Estates, which was a reputable and well known estate agency enterprise operating in the area. Star Estates appointed one of the best estate agents in their service, Josh Brown, to execute that mandate.

When contacted by Josh, Harrington-Smythe proceeded to give him strict instructions that the proposed sale of the property was to be handled as discretely and with as little publicity as possible. Harrington-Smythe indicated, in addition, that it had been informally agreed by the property owners of the area that they would always try to find 'suitable' purchasers for their homes when selling. Harrington-Smythe, therefore, instructed Josh that any purchasers of the property should be persons who 'fitted into the neighbourhood'. They should be 'people who have the same socio-economic background' as the other residents of the suburb and, also, who 'subscribe to the same Protestant ethic'.

In consequence of such explicit instructions Josh refrained from placing a 'For Sale' sign on the property and also did not advertise the property in the media or place it on the Star Estates website as he would generally otherwise have done. Based on the restrictive instructions received from Harrington-Smythe, Josh believed, after much thought and also after consulting with the principals of Star Estates, that the only feasible marketing effort available to him was to place a letter, addressed on the letterhead of Star Estates, in the mailboxes of the other residents of the community inviting them, as he put it, '... to play an important role in deciding who your new neighbours will be'. The letter continued, 'If you know of anyone who you would prefer to have living in your area, please request them to contact me as a home is possibly available and I will be only too happy to arrange a private viewing'.

This marketing strategy was soon drawn to the attention of Ms. Angela Smith, who worked for a rival estate agency enterprise, since her mother, who lived in the area, had provided her with the letter received from Josh. Angela first accessed the Star Estates website in an endeavour to find out which particular property in the area was being sold by Star Estates but could find nothing.

She then drove through the area to see if she could locate a "For Sale" sign and scanned the property sections of all relevant newspaper to obtain information on the property – still to no avail. Finding no mention of the property in the media and noting the absence of a 'For Sale' notice on the property, Angela concluded that Josh's marketing strategy was specifically designed to limit access to the property to individuals preselected by current property owners.

Angela then resolved to report the matter to the Estate Agency Affairs Board for investigation.