



civilunion

by coenie kukkuk

ayeardowntheline

It has been fourteen years since Judge Albie Sachs' groundbreaking judgment in the Constitutional Court granting LGBTI people the right to marry, and thirteen years since the actual law came into being. The dust has settled, the initial shock of the majority of straights subsided and the euphoria of gays made way for the usual getting on with our lives. Or has it?

Or has it? What about those couples that opted for marriage? Has the road been strewn with roses or thorns? How did they do it and what are the logistics of such a step? Most of us have an idea of how it works – but what is it like to actually take the plunge? We decided to ask the torchbearers – those brave souls who entered the previously exclusive domain of heterosexuals.

Jackie and Vera Nagtegaal from Stellenbosch were the first lesbian pair to get married in South Africa. They are the owners of publishing house Genugtig! Uitgewers and Jackie, coming from a legal family and an LLB-graduate, pulled some strings to get married on the

1st of December 2006 – the very first day gay marriage became legal. They decided that both will take Jackie's surname: "simply because we planned to have children and thought it would make it a little more understandable that we're one family unit, trading under the same name, if you will. Vera's surname was Van der Merwe - we figured there were enough of them around anyway!" They opted for the marriage option as they don't see the point to a civil union. So far they have not experienced any negative reactions when they state that they are married, although they are treated as sisters because of the surname – even at hospital when



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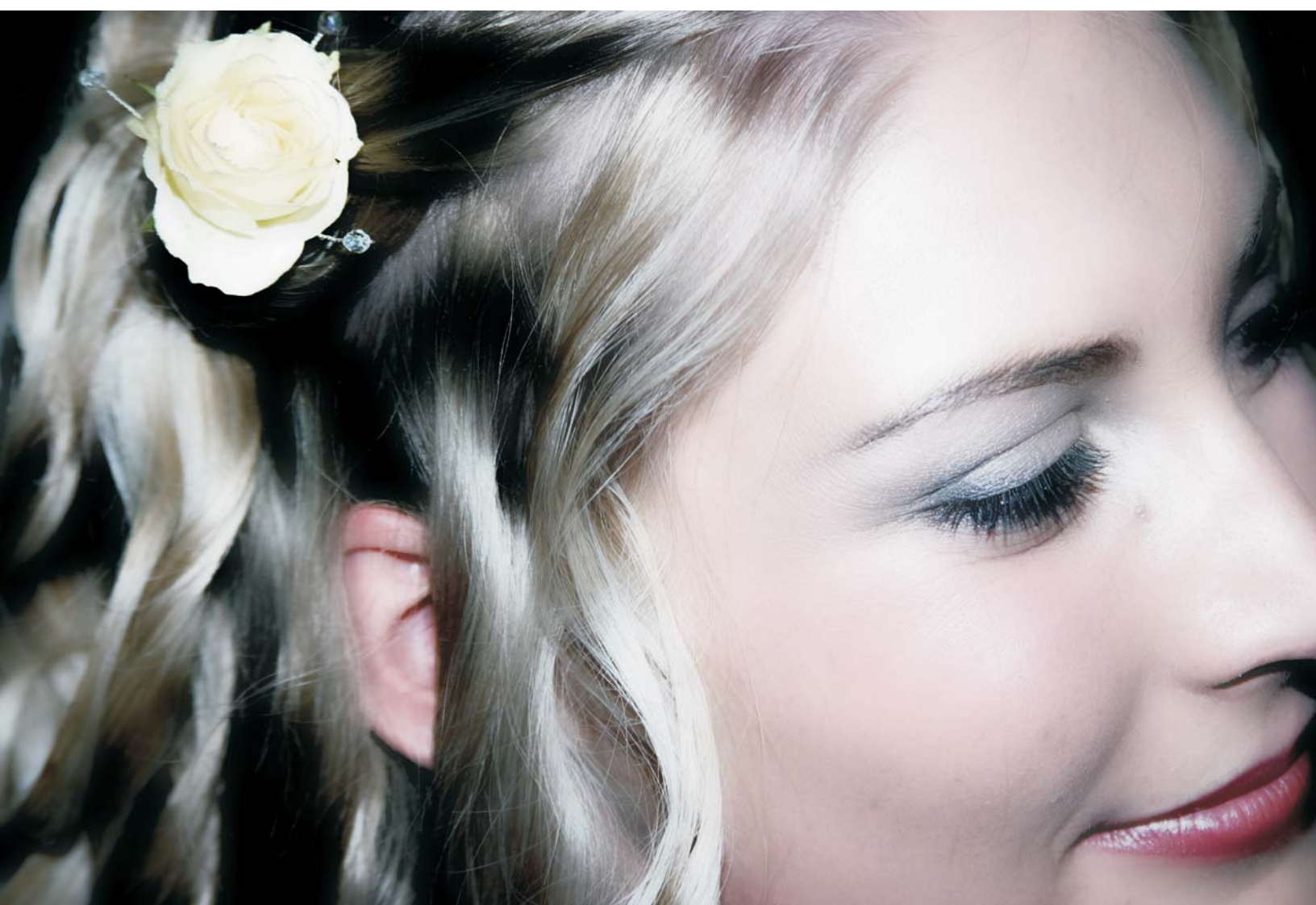
Vera recently had a baby! Says Jackie: “When we book at a hotel, there’s the wonderful “Oh” when we tell them its fine, they should keep the king size bed, no need for two singles. And no, Mr. Nagtegaal won’t be joining us.”

They opted to enter into an antenuptial contract (“ANC” or “huweliksvoorwaardekontrak” in Afrikaans). Their affairs are in order, even if it means that Jackie now also own Vera’s ABACD’s!

Pierre le Roux and Pierre du Pisanie got married in December 2006. According to Pierre le Roux: “after nine years together we were thrilled when gay marriage was finally legalised. In true alternative live style form we did the whole process backwards. In September 2006, when we learned that the legalisation of gay marriage was immanent, we decided to go on our honeymoon. On the 18th of December we had our marriage ceremony with only two witnesses.

In January 2007, we broke the news to all our friends and family and had our reception.” They decided not to change their surnames due to professional reasons - both are in industries where it would make it difficult – administratively and in terms of clients. Imagine the confusion!

They were married by Ds. Andre Muller of the mostly gay Reforming Church in his Hatfield offices in Pretoria. They took this route due to possible resistance from Home Affairs officials and the possibility of all the red tape. The *dominee* made sure that they were getting married for the right reasons, and after learning that they were together for nine years and that they prefer to be married due to the legal benefits, he conducted the ceremony. After nearly a year of being married, they can certainly recommend it to others who are contemplating the move. They warn however that couples should do research in deciding



which legal firm they choose to draw up the contract. They have also changed their wills and are conducting their financial affairs as a married couple. So far it has all been positive, except for the confusion of the census official who visited them – they had to explain that yes, they were married, but no, there are no women – they were married to each other! Clearly it was the first gay married couple he came across.

Delize and Cristill Kruger were also married by ds. Muller, but at Farm Inn in Pretoria, a popular venue for wedding receptions. They decided to use Cristill's surname, as Delize didn't like her maiden name and they wanted to ensure the surname when later on having a family. They chose marriage over civil union as they wanted full equality. Delize says: "For us, being married means to be, as the vows suggest – forever together until death do us part."

They also haven't experienced

any negative reaction, but Delize remarks: "We confused a doctor a bit. She called us up to ask some questions and asked me if in fact, my wife was "the man". It took a while to explain the situation and she apologised for the confusion."

The Kruger's also entered into a pre-marriage contract and warns that marriage isn't something that should be rushed into.

Not everyone has experienced such bliss however. One interviewee, who wants to stay anonymous for understandable reasons, is now in the process of divorce. According to him, his partner only "wanted to take him for a ride". The actual ceremony was also fraught with difficulties. They had an appointment for eight o'clock at the Vanderbijlpark offices of Home Affairs, but the person who had to officiate refused. After a lot of complaints and arguments, they finally found someone from Heidelberg who married them in



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Vereeniging! They were also, quite erroneously, told that civil union was their only option. Although his didn't work out, he says he will do it again when he meets the right person, but will stay clear of Home Affairs.

It was also the experience of Tracey Sandilands, director of Joburg Pride, when she and her partner Janine Marais decided to get married – they couldn't even get an appointment at Home Affairs. They eventually got hold of Janine Preesma, a minister from Pretoria, who conducted a civil ceremony as they didn't want a religious one, without any problems and at a nominal fee. They decided to keep their own surnames due to the “PT involved in getting new IDs, passports, drivers licenses etc.” They also feel that civil union is a second rate option. She advises that the couple should try and find an

official that is sympathetic – it's simply too discouraging to deal with Home Affairs and the courts.

Ponie Ngcobo and Thulile Gasa recently got married in Pietermaritzburg. Ponie is attached to the Pietermaritzburg Gay and Lesbian Network, and got married through Home Affairs, where, for a change, everything went smoothly. According to Anthony of the PGLN, they are now minor celebrities in town after their photo appeared in a local newspaper. This is encouraging in the light of the disadvantaged position black lesbians are in South African society.

The best advice for couples who decide to take this very important step, as clearly illustrated through the experiences of others, is that the first consideration should be that you want to share the rest of your life with

your intended spouse. Then a legal firm should be found who are willing and able to draw up the ante-nuptial contract, by far the best option – if not, parties are automatically married in community of property – where only one estate exists. With an ante-nuptial contract, one can opt for the accrual system, which has the same benefits from the date of marriage as community of property, but leaves room for the spouses to still enter into other contracts as individuals. One must also take cognisance of the fact that your affairs should be in order not only for the eventuality of divorce, but also in the vent of the death of one of the spouses. For the actual ceremony, rather find a religious officer than a Home Affairs official, even if only a civil ceremony is required. Thereafter, happiness is up to the two of you, and only you. Good luck!