

REPUBLIC OF SOUTH AFRICA



IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG LOCAL DIVISION, JOHANNESBURG

- (1) REPORTABLE: YES / NO
(2) OF INTEREST TO OTHER JUDGES:
YES/NO
(3) REVISED.

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CASE NO: 10264/2020

In the matter between:

CITY OF EKURHULENI METROPOLITAN MUNICIPALITY

APPLICANT

and

**THE UNLAWFUL OCCUPIERS OF THE IMMOVABLE
PROPERTY AT PORTION 102, HOLGATFONTEIN 326
IR, NIGEL, also known as MACKENZIEVILLE EXT 2**

1ST RESPONDENT

**CITY OF EKURHULENI METROPOLITAN
POLICE DEPARTMENT ("SAPS")**

2ND RESPONDENT

**SOUTH AFRICAN POLICE SERVICES
("EMPD")**

3RD RESPONDENT

TIFFANY BARNARD (MS)

4TH RESPONDENT

NONHLANHLA MKHALIPHI (MRS)

5TH RESPONDENT

BRENDA OCTAVIA MKHALIPHI (MS)	6TH RESPONDENT
B J WILLARD (MR)	7TH RESPONDENT
SHARM ROGERS (MR)	8TH RESPONDENT
HANS KAYSTER (MR)	9TH RESPONDENT
LETOYA GIBBS (MS)	10TH RESPONDENT
SANA PRETORIUS (MRS)	11TH RESPONDENT
J CEASER (MR)	12TH RESPONDENT
JEANY NKOSI (MRS)	13TH RESPONDENT
GABRIEL LOTTERING (MR)	14TH RESPONDENT
ALLAN JOSEPH FORTUIN (MR)	15TH RESPONDENT
ALISTAIRE CLIVE MMULLE	16TH RESPONDENT
CHESLIN WINSTON ADAMS	17TH RESPONDENT
LUCIAN GALLON	18TH RESPONDENT
TSHEHLA KHUSTO SQUATE	19TH RESPONDENT
DELICIA BAMBISA	20TH RESPONDENT
MZWAKHE LAWRENCE HLOPHE	21ST RESPONDENT
WAHIED ELIE	22ND RESPONDENT
CHANTELL LEACH	23RD RESPONDENT
DERIO MARK LOUWSKITTER	24TH RESPONDENT
ELLAIN BEVERLEY MOPP RESPONDENT	25TH
ALRANE JULIAN BRANDT RESPONDENT	26TH
CRYSTAL VAN WYK RESPONDENT	27TH
GERALDINE KATRIENA MITCHELL RESPONDENT	28TH
LUCY TSOTETSI RESPONDENT	29TH
MARIA SCHROEDER RESPONDENT	30TH
SHARON MICHELLE CROTZ RESPONDENT	31ST
CLEOPATRA LIVOIDIA KIKIA	32ND

RESPONDENT

**SHIRLY-ANN SHOEMONE ESBEND
RESPONDENT**

33RD

JENNIFER WENDY DIENIE

34TH RESPONDENT

FARZAANA MANGERA

35TH RESPONDENT

MARRIAM JINA

36TH RESPONDENT

PHAKISO THABANA

37TH RESPONDENT

NATASHA BETTY WATSON

38TH RESPONDENT

THANDEKA FOURIE

39TH RESPONDENT

INALEE CHIRENE MALO

40TH RESPONDENT

MBALI SHARON MAIMELA

41ST RESPONDENT

SARAIT GEORGE

42ND RESPONDENT

JEROME BADENHORST

43RD RESPONDENT

YVONNE COETZEE

44TH RESPONDENT

RASHAAD IQBAL HASSIM

45TH RESPONDENT

KEVIN EDWIN ATLEE

46TH RESPONDENT

HOLLITTO PAUL D'ALMEIDA

47TH RESPONDENT

THOBEKA MAHLANGU

48TH RESPONDENT

BRANDON MARTIN RICHARDS

49TH RESPONDENT

ALRANE BRANDT

50TH RESPONDENT

REAGAN GRANT SALLIE

51ST RESPONDENT

BERENICE ETHNE PETERSON

52ND RESPONDENT

NICO FRANCIS

53RD RESPONDENT

KYLE MULLER

54TH RESPONDENT

LOUIS PRECIOUS HERMANUS

55TH RESPONDENT

REAGEN WALTER BEKKER

56TH RESPONDENT

SUZETTE PEACOCK

57TH RESPONDENT

FELICIA MERCIA PEAHBHAY

58TH RESPONDENT

STELLA LAURA JOUBERT

59TH RESPONDENT

PATRICIA BOSMAN

60TH RESPONDENT

ELBERINA STEYN

61ST RESPONDENT

ELTON KING	62 ND RESPONDENT
SHANE ZAAN BRANDT	63 RD RESPONDENT
PIETHERMANES FILANDER	64 TH RESPONDENT
QUINTON VAN WYK	65 TH RESPONDENT
WYOLIN WENNAAR	66 TH RESPONDENT
LEON PILLAY	67 TH RESPONDENT
JULIUS CEASER	68 TH RESPONDENT
VIVIEN HUMAN	69 TH RESPONDENT
JACQUES MEYER	70 TH RESPONDENT
VIDONIA NADIA KLEIN	71 ST RESPONDENT
SAUL ROOI	72 ND RESPONDENT
JOHN JACOBS	73 RD RESPONDENT
ERNEST MAKHUBO	74 TH RESPONDENT
LIZZY SMITH	75 TH RESPONDENT
DOYI LETTIE ZWANE	76 TH RESPONDENT
ANDRE ALEXANDER	77 TH RESPONDENT
MALCOM CLYDE SMITH	78 TH RESPONDENT
ANUSHCAR KLEIN	79 TH RESPONDENT
THANDIWE MEFANE	80 TH RESPONDENT
FATIMA SCHROEDER	81 ST RESPONDENT
QUEENIE MARKGRAAF	82 ND RESPONDENT
JOAN BHAQA	83 RD RESPONDENT
DAVID WAGNER	84 TH RESPONDENT
TEBOGO TSHELO	85 TH RESPONDENT
ANNA LINA FRANCIS	86 TH RESPONDENT
BONGANI JAMES NAPE	87 TH RESPONDENT
MORNE KELLY	88 TH RESPONDENT
CHRISTINE ABRAHAMS	89 TH RESPONDENT
SHELDON BADENHORST	90 TH RESPONDENT
RASHEED JEREMIAH	91 ST RESPONDENT
REAGAN GRANT SALLI	92 ND RESPONDENT
HENDRIK VAN HEERDEN	93 RD RESPONDENT
QUINTON WEBB	94 TH RESPONDENT

LUCAS JOHANNESBATES	95TH RESPONDENT
GRAHAM GRAY	96TH RESPONDENT
ELIZABETH JOUBERT	97TH RESPONDENT
MBALI MAPHALALA	98TH RESPONDENT
LYDIA ROOS	99TH RESPONDENT
RICARDO SWARTZ	100TH RESPONDENT
RAQUEL BROOKS	101ST RESPONDENT
VANESSA WILLIAMS	102ND RESPONDENT
DANIEL MOHAPI	103RD RESPONDENT
DORAH VAN BILION	104TH RESPONDENT
NATALIE SNYDERS	105TH RESPONDENT
WILLBA CATHERINE SELINDER	106TH RESPONDENT
WARLIED BANOO	107TH RESPONDENT
BERENICE SWATZ	108TH RESPONDENT
LORENZO LOUW	109TH RESPONDENT
SHERYLENE LOUW	110TH RESPONDENT
FABIAN ZIEGERS	111TH RESPONDENT
RIAAZ ABDULLA GUMAN	112TH RESPONDENT
OCTAVIA ROUX	113TH RESPONDENT
LEEBAN ROUX	114TH RESPONDENT
MEGAN WEBB	115TH RESPONDENT
SAMANTHA ABRAHAMS	116TH RESPONDENT
MARCOLENE WEBB	117TH RESPONDENT
GERONIMO LOUW	118TH RESPONDENT
AZELIA FARLENE SOUTHEN	119TH RESPONDENT
RONA HOWARD	120TH RESPONDENT
M DEJONG	121ST RESPONDENT
LINDIWE NGUZA	122ND RESPONDENT
THULANI BUTHELEZI	123RD R ESPONDENT
PHUMZILE LIZZY MNUNE	124TH RESPONDENT

ALIDA WANDA POST	125TH RESPONDENT
SHANEE DANIELLE	126TH RESPONDENT
DION SAMUEL JAMES HARRISON	127TH RESPONDENT
NKOSINATHI WILFRED NKOSI	128TH RESPONDENT
ISOLONE MICHELLE KENNY	129TH RESPONDENT
FIONA MARTIN	130TH RESPONDENT
ROBIN DIANE ADAMS	131ST RESPONDENT
SAMUEL BROWN	132ND RESPONDENT
JAUNITA SYLVIA BEUKES	133RD RESPONDENT
JACK ISAACS	134TH RESPONDENT
REGGIE CRISTJAN MOLEFE	135TH RESPONDENT
DOWNWAY STUURMAN	136TH RESPONDENT
THADEUS DUBER	137TH RESPONDENT
SHEREEZ BEYERS	138TH RESPONDENT
RENE' BEYERS	139TH RESPONDENT
INGRID KOEKEMOER	140TH RESPONDENT
TLOU FRANS KGOMO	141ST RESPONDENT
PUTI PHINEAS KGOMO	142ND RESPONDENT
MADIMETJA STEPHEN NONG	143RD RESPONDENT
LESLEY JOHN MALONEY	144TH RESPONDENT
SHIELA STOMPIE ESAU	145TH RESPONDENT
MBALI MAPHALALA	146TH RESPONDENT
SONIA PATIENCE JENLLEE NAIDOO	147TH RESPONDENT
EDWIN SAMUELS	148TH RESPONDENT
PERSERVERENCE MAHLANGU	149TH RESPONDENT
BRENDON EPHRAIM KOCK	150TH RESPONDENT
LUCY DIPUO TSOTETSI	151ST RESPONDENT
GERT JOHANNES BLOCK	152ND RESPONDENT
KLARA IRENE FELICITY GEORGE	153RD RESPONDENT
BUSI CINDY MTSWENI	154TH RESPONDENT

RUAN BRANDON HOWARD	155TH RESPONDENT
CAROL ANNE CAROLS	156TH RESPONDENT
OSWILL BEYERS	157TH RESPONDENT
BEN SPEELMAN	158TH RESPONDENT
KARIEM ROOS	159TH RESPONDENT
BANELE NGWENYA	160TH RESPONDENT
RANDALL THOMPSON MABASO	161ST RESPONDENT
JOSEPH MAPOTO	162ND RESPONDENT
PERSERVERANCE JEANINE MABASO	163RD RESPONDENT
DUDUZILE REJOICE NENE	164TH RESPONDENT
RENE BEYERS	165TH RESPONDENT
CHARMAINE BEYERS	166TH RESPONDENT
RINA SWARTS	167TH RESPONDENT
ALLEGRO WILLARD	168TH RESPONDENT
SHADRACK MOKOENA	169TH RESPONDENT
GERTRUIDA JAARS	170TH RESPONDENT
MATHEW BERGMAN	180TH RESPONDENT
MARIA TSHABANGU	181ST RESPONDENT
EUGENE SAAL	182ND RESPONDENT
SONTO SABA	183RD RESPONDENT
ANTHONY MORRIS	184TH RESPONDENT
BUSISIWE MFAKU	185TH RESPONDENT
MAGGIE THANDY MAKHOBA	186TH RESPONDENT
ANDREA MAANSDORP	187TH RESPONDENT
SEVRIANO MARRICK BENTLEY	188TH RESPONDENT
FRANKLIN DAVIDS	189TH RESPONDENT
EMLYN SMITH	190TH RESPONDENT
MAHALI BRENDA MATLALI	191ST RESPONDENT
SENZO LOUIS MASEKO	192ND RESPONDENT
CAMPHERDANICA BROWN	193RD RESPONDENT

NHLANHLA VINOLIA MTIMUNYE	194TH RESPONDENT
IVAN FRANK MORRIS	195TH RESPONDENT
FARREL MARTIN	196TH RESPONDENT
DIEGO PROBET	197TH RESPONDENT
SALOME WHITNEY SMITH	198TH RESPONDENT
SOPHIE MARTHA MKALIPE	199TH RESPONDENT
BETTY MATSHIGA	200TH RESPONDENT
SHAULLIN GILBERT	201ST RESPONDENT
ZELDA CONSTANCE BRENDA ROOS	202ND RESPONDENT
ANDILE SHABALALA	203RD RESPONDENT
CHARMAINE ROOS	204TH RESPONDENT
ASHRIFF SHARIEF GUMAN	205TH RESPONDENT
KHAVELA TSUMANE	206TH RESPONDENT
PREVEIN FRANK VOLMINK	207TH RESPONDENT
THABISILE PRECIOUS PULE	208TH RESPONDENT
RICARDO DELLANO VISAGIE	209TH RESPONDENT
MALCOLM CLYDE SMITH	210TH RESPONDENT
PHUMZILE LIZZY MNUNI	211TH RESPONDENT
ANDRE ALEXANDER	212TH RESPONDENT
HENRIETTE SWARTS	213TH RESPONDENT
CLEODINE NEL	214TH RESPONDENT
ANGELA SMITH	215TH RESPONDENT
BIANCA BADENHORST	216TH RESPONDENT
MARIA KLEINTJIE MOOS	217TH RESPONDENT
NDWAMATO DANIEL PHASWANA	218TH RESPONDENT
PRESTON CHARLES SOLOMONS	219TH RESPONDENT
SIDNEY KHAN	220TH RESPONDENT
BYRON MARCUS	221ST RESPONDENT
JESSICA ROSEMONDE SPEELMAN	222ND RESPONDENT
PATRICIA PHILANDER	223RD RESPONDENT

ANGELIQUE BROOKS	224 TH RESPONDENT
DARRYL COX	225 TH RESPONDENT
JOHN TSHABALALA	226 TH RESPONDENT
BJ WILLIAMS	227 TH RESPONDENT
BRAECHELLE WILLARD	228 TH RESPONDENT
ROSETTA ROOS	229 TH RESPONDENT
LORENZO LOUW	230 TH RESPONDENT
LIZELLE MAGDELINE LOUW	231 ST RESPONDENT
LABIONDE ANNE LOUW	232 ND RESPONDENT
RAIDEN VAN WYK	233 RD RESPONDENT
LINDIWE NGUZA	234 TH RESPONDENT
EDITH KENNY	235 TH RESPONDENT
URSULA PORCIA PETERSON	236 TH RESPONDENT
JUSTIN MOOSA BROOKS	237 TH RESPONDENT
LETHUKUTHULA SABELO NKOSI	238 TH RESPONDENT
THOKOZILE PATRICIA ROUX	239 TH RESPONDENT
DOCTOR KLAAS ZWANE RESPONDENT	240 TH
STOFFEL RICARDO VAN HEERDEN	241 ST RESPONDENT
STEPHANIE SCHALKWYK	242 ND RESPONDENT
JAFTA EPHRAIM NKOSI	243 RD RESPONDENT
SAUL MARTINS ROOS	244 TH RESPONDENT
SHANEE KHAN	245 TH RESPONDENT
NATASHA KLARA SKARNEK	246 TH RESPONDENT
ANATTIO NHLAPO	247 TH RESPONDENT
SAFIRAH MARUPENG MOKWANA	248 TH RESPONDENT
RICHMAN NTOKOZA MATHE	249 TH RESPONDENT
WONIQUE FERRIS	250 TH RESPONDENT
SHANAY KORDOM	251 ST RESPONDENT
ANNELINE VAN GREENEN	252 ND RESPONDENT
ELROY PEACOCK	253 RD RESPONDENT

EUGENIA GOLIATH	254TH RESPONDENT
CELA DE ABREU	255TH RESPONDENT
GOODMAN JOHANNES ZWANE	256TH RESPONDENT
ANGELA VAN DER WESTHUIZEN	257TH RESPONDENT
LINDA THEMBEKA GOVA	258TH RESPONDENT
ESTA MAHLANGU	259TH RESPONDENT
PINKANA EMILY HADEBE	260TH RESPONDENT
LUCHANDRE JANLE CORDELIA MARKGRAAF	261ST RESPONDENT
CHRISTINE THERESA ABRAHAMS	262ND RESPONDENT
KASHIEFA CHARLES	263RD RESPONDENT
NKOSIVEZWE SYDNEY MKONZA	264TH RESPONDENT
LOEKIE NAIDOO	265TH RESPONDENT
TINA MINAAR	266TH RESPONDENT
LAWRENCE ROOS	267TH RESPONDENT
GIOVANNO VERGAEL MOOS	268TH RESPONDENT
SIMONE BROOKS	269TH RESPONDENT
DARIUN MARSHALL	270TH RESPONDENT
CHESTER STEPHEN SOLOMONS	271ST RESPONDENT
ROSSLYN SMITH	272ND RESPONDENT
LYDIA MMAKGONE CHOEU	273RD RESPONDENT
NATASHA BRUMMER	274TH RESPONDENT
THANDIWE ANNAH MEFANE	275TH RESPONDENT
LOUISA PRECIOUS HERMANUS	276TH RESPONDENT
KEAGAN MARCO ROSE	277TH RESPONDENT
EMMANUEL DENNIS SMITH	278TH RESPONDENT
COLIN HENLEY ADRIAN MAY	279TH RESPONDENT
KARIN CLASSEN	280TH RESPONDENT
JESSICA DUANNE LOUWSKITTER	281ST RESPONDENT
GAVA EAGLESTONE	282ND RESPONDENT
WARREN ANGELO NAIDOO	283RD RESPONDENT

LEAREIL STEFFORD SHAWN	284 TH RESPONDENT
DOCTOR KLAAS ZWANE RESPONDENT	285 TH
FRANKLIN DAVIDS	286 TH RESPONDENT
MARK HAROLD OGLE	287 TH RESPONDENT
MPENDULO PROGRESS NZIMANDE	288 TH RESPONDENT
DEIDRE PADAYACHEE	289 TH RESPONDENT
JOHANNES JOEY WALES	290 TH RESPONDENT
CHARDENE' CLARISSA PADAYACHEE	291 ST RESPONDENT
DAVID SMITH	292 ND RESPONDENT
JOAN EUNICE KOEKEMOER	293 RD RESPONDENT
MAUREEN SMITH	294 TH RESPONDENT
MICHAEL DANIEL KOESNEL	295 TH RESPONDENT
CHRISTO LOTTERING	296 TH RESPONDENT
MARTHA VAN ROSS	297 TH RESPONDENT
TANYA ABRAHAMS	298 TH RESPONDENT
HENRICO MAANSDORP	299 TH RESPONDENT
MARIA NIKLAAI	300 TH RESPONDENT
ALISTER THERON	301 ST RESPONDENT
ELIZABETH JOUBERT	302 ND RESPONDENT
GERTRUIDA JAARS	303 RD RESPONDENT
PHUMZILE LIZZY MNUNE	304 TH RESPONDENT
HILDA POPPIE MANCHO	305 TH RESPONDENT
JOSEPH GEORGE KUNENE	306 TH RESPONDENT
THEMBA LEDONGA	307 TH RESPONDENT
ANGELA POONEN	308 TH RESPONDENT
MAGGIE MASHIYANE	309 TH RESPONDENT
MARIA TSHABANGU	310 TH RESPONDENT
ANGELIQUE PEACOCK	311 TH RESPONDENT
LUCY DIPUO TSOTETSI	312 TH RESPONDENT
ELTON KING	313 TH RESPONDENT

ESTHER MHLANGU	314TH RESPONDENT
ISOLONE KENNY	315TH RESPONDENT
ELFONZO VAN SCHALKWYK	316TH RESPONDENT
GRAHAM SMALE	317TH RESPONDENT
GERONIMO ENVER LOUW	319TH RESPONDENT
TEVIN FORTUIN	320TH RESPONDENT
MODIEHI THABANA	321ST RESPONDENT
KEAGAN ROSE	322ND RESPONDENT
SHAWN GOLIATH	323RD RESPONDENT
CHESLIN ISAACS	324TH RESPONDENT
DAVID TUKONE	325TH RESPONDENT
DEIDRE HEIDE PADAYACHEE	326TH RESPONDENT
NOMPUMELELO PHIRI	327TH RESPONDENT
CHRISTOPHER VAN SCHALKWYK	328TH RESPONDENT
ERIC SOUTHEN	329TH RESPONDENT
PINKANA HADEBE	330TH RESPONDENT
GENEVIEVE DOEKIES	331ST RESPONDENT
LATOYA ROUX	332ND RESPONDENT
SEROTO SAMUEL MORE	333RD RESPONDENT
URSULA LOUW	334TH RESPONDENT
FABIAN ZIEGERS	335TH RESPONDENT
SIMONE BROOKS	336TH RESPONDENT
ANDRIES ADAMS	337TH RESPONDENT
ARTHUR DINJANA	338TH RESPONDENT
LEONI CAROL LOUWSKITTER	339TH RESPONDENT
SELINA DU PREEZ	340TH RESPONDENT
ELROY PEACOCK	341ST RESPONDENT
TINA MINNAAR	342ND RESPONDENT
ANDREA MAANSDORP	343RD RESPONDENT
LORETTA LOUW	344TH RESPONDENT

VUSUMUZI LETHULI	345 TH RESPONDENT
NONHLANHLA MKHALIPI	346 TH RESPONDENT
CHENTONIQUE GOLIATH	347 TH RESPONDENT
ANGELA SMITH	348 TH RESPONDENT
NATASHA BRUMNER	349 TH RESPONDENT
ADDEL LOTTIE ABRAHAMS	350 TH RESPONDENT
CHADWIN AMIGO	351 ST RESPONDENT
PORTIA BENNET	352 ND RESPONDENT
AGNES BULELWA BOOI	353 RD RESPONDENT
SIPHAKAMISO BUTHELEZI	354 TH RESPONDENT
PHUMELELE MEITA BUTHELEZI	355 TH RESPONDENT
SIPHINDILE BUTHELEZI	356 TH RESPONDENT
PRETTY NOLUBABACO BAWUTI	357 TH RESPONDENT
ADELAIDE NONHLANHLA CHILWANE	358 TH RESPONDENT
NOMAXASIBE BERNIES DUIKER	359 TH RESPONDENT
ZANDILE GINIZA	360 TH RESPONDENT
JULIA GOMO	361 ST RESPONDENT
THOKO GUMEDE	362 ND RESPONDENT
BAISE GODSPHO HADEBE	363 RD RESPONDENT
KHANYISILEMARIA HADEBE	364 TH RESPONDENT
NONKULULEKO PRECIOUS HLONGWANE	365 TH RESPONDENT
THEMBI PROSPERITE HLATSHWAYO	366 TH RESPONDENT
PETER JABULANE KHANYE	367 TH RESPONDENT
PHILEMON JEMSANA	368 TH RESPONDENT
BOITUMELO KHOZA	369 TH RESPONDENT
CHARLES KUBHEKA	370 TH RESPONDENT
THEMBI NOMSA KHOZA	371 ST RESPONDENT
MUSA KHUMALO	372 ND RESPONDENT
ROSE KHUMALO	373 RD RESPONDENT
EVA SALUKWATI KHUMALO	374 TH RESPONDENT

SIBONGILE KHUMALO	375TH RESPONDENT
JACK TSHEPO KHAUOE	376TH RESPONDENT
ISMAEL BOY KODISANE	377TH RESPONDENT
MUSA BONGI KUBHEKA	378TH RESPONDENT
BEKISISA WELLINGTON LANGA	379TH RESPONDENT
KHANYISILE DAPHNEY LANGA	380TH RESPONDENT
THEMBA LEDONGA	381ST RESPONDENT
SPHELELE LANGELITHE SASONDO	382ND RESPONDENT
BRITAIN TSWAANE LETSEDI	383RD RESPONDENT
MARIA SENQOANE LETSOALO	384TH RESPONDENT
STHABISO PHILASANDE MABASO	385TH RESPONDENT
MERIDON PULEDI MAILULA	386TH RESPONDENT
NOLUTHANDO MABEDLA	387TH RESPONDENT
NKULULEKO MANANA	388TH RESPONDENT
PRECIOUS PHINDILE MANALENG	389TH RESPONDENT
ZANELE FLORENCE MAKILE	390TH RESPONDENT
LINDIWE MALANGA	391ST RESPONDENT
VUYISA MAKEYISI	392ND RESPONDENT
KGOTLELECO WINZARD MASHILE	393RD RESPONDENT
HANKI CHRISTOPHER MATEBULA	394TH RESPONDENT
MMABATHO MATLOU	395TH RESPONDENT
ROBERT MAHATLANE	396TH RESPONDENT
LIZZY TSHEPO MAYIU	397TH RESPONDENT
LUTHANDO ZOTHA MBATHA	398TH RESPONDENT
HLENGIWE MBATHA	399TH RESPONDENT
ANNA MAGUYO	400TH RESPONDENT
THOKOZWA MBENGWENE	401ST RESPONDENT
DUMISANI MKHWANAZI	402ND RESPONDENT
MUSA SABELO MAMBA	403RD RESPONDENT
MARIA SIBONGILE MANYIKA	404TH RESPONDENT

SOPHIA MAKALELA	405TH RESPONDENT
MERCEY MAKHOBHA	406TH RESPONDENT
JEFFREY HLAMULA MAKHUBELA	407TH RESPONDENT
BUSISIWE MAOHONGELA	408TH RESPONDENT
NONTOMBI MASANABO	409TH RESPONDENT
MSAWENKOSI MASOND	410TH RESPONDENT
RAKONTANE FRANS MASETLA	411TH RESPONDENT
BETTY NOZINJA MATSHIGA	412TH RESPONDENT
THEMBA MAVUNDLA	413TH RESPONDENT
IDAH BUSISIWE MAZIBUKO	414TH RESPONDENT
SIBUSISO MARKSMAN MAZIBUKO	415TH RESPONDENT
NKOSANA MCOCO	416TH RESPONDENT
XOLANI MDOKWE RESPONDENT	417TH
PATRICK MDLALOSE	418TH RESPONDENT
NZUZO LUYANDA MDLULI	419TH RESPONDENT
JULIA MFELANI	420TH RESPONDENT
NOMFUNDO NOSIPHO MHLUNGU	421ST RESPONDENT
THANDEKA MKIZE	422ND RESPONDENT
DELISIWE MARTHA NKUTHA	423RD RESPONDENT
DUDUZILE AGNES MLAMBO	424TH RESPONDENT
MMAMPEELE LUCIA	425TH RESPONDENT
SIPHO MNGUNI	426TH RESPONDENT
MDUDUZI MNINZI	427TH RESPONDENT
JOSEPHMOFOKENG	428TH RESPONDENT
TSEBISO REPLY MOHLALA	429TH RESPONDENT
YVONNE MOFOKENG	430TH RESPONDENT
KENNETH MOKUBUNG	431ST RESPONDENT
HABUNENI ALETTA MOLOI	432ND RESPONDENT
NANDILE KARLINA MOPELI	433RD RESPONDENT
BRIAN MORAKE	434TH RESPONDENT

JAN MORAJANE	435 TH RESPONDENT
RAESETJA AGNES MOTHIBI	436 TH RESPONDENT
SIMPHIWE MPANGANE	437 TH RESPONDENT
MARITS MPHAOJWANE	438 TH RESPONDENT
NHLANHLA MTHIMUNYE	439 TH RESPONDENT
JOYCE MSIZA	440 TH RESPONDENT
MOSES NDANGANENI MUTHELO	441 ST RESPONDENT
LAZOLA KHAYAKAZI TRACY MQUBE	442 ND RESPONDENT
LWAZI CEBELIHLE MHLUNGU	443 RD RESPONDENT
ELIZABETH NAMUNE	444 TH RESPONDENT
SIPHO GENIUS NGUBANE	445 TH RESPONDENT
CABANGILE NDLOVU	446 TH RESPONDENT
SIYABONGA NGCOBO	447 TH RESPONDENT
NOSIPHO NGOBESE	448 TH RESPONDENT
LAURETIA NGUBANE	449 TH RESPONDENT
JABULANI NKOSI	450 TH RESPONDENT
MAKHOSINI NKOSI	451 ST RESPONDENT
JAFTA EPHRAIM NKOSI	452 ND RESPONDENT
TSHIDI FRANCIS NKOSI	453 RD RESPONDENT
NGUBANI NOKWANDA	454 TH RESPONDENT
STEPHINA NONG	455 TH RESPONDENT
NELISIWE SINDISIWE NOTYELWA	456 TH RESPONDENT
WILLY INNOCENT NTOMBELA	457 TH RESPONDENT
NTOMBIFUTHI NDLANGAMANDLA	458 TH RESPONDENT
SINOTHI MAXWELL NTULI	459 TH RESPONDENT
NTOMBUSUTHI HAPPINESS PETER	460 TH RESPONDENT
GODFFREY PHIRI	461 ST RESPONDENT
NONDUMISO WENDY PHUNGULA	462 ND RESPONDENT
LINDIWE RADEBE	463 RD RESPONDENT
NOSIPHIWO NWELE	464 TH RESPONDENT

SOLOMON MACWUELANE RADEBE	465 TH RESPONDENT
SYLEVESTER LEHLOHONOLO SEMOUSA	466 TH RESPONDENT
DOROMINAH SEROBE	467 TH RESPONDENT
EMILY DIMAKATSO SETAI	468 TH RESPONDENT
JAMES SHABANGU	469 TH RESPONDENT
THULI DORIS SHOBA	470 TH RESPONDENT
STHEMBISO SHOBA	471 ST RESPONDENT
SIPHIWE SIBIYA	472 ND RESPONDENT
TSHEPONG AMOS SIMANGO	473 RD RESPONDENT
SIBNGILE EUNICE SIMELANE	474 TH RESPONDENT
FRANCINA SEODISA	475 TH RESPONDENT
MIYA SIYELANE	476 TH RESPONDENT
NTLOKO SONWABO	477 TH RESPONDENT
PATRICIA TSHABALAL	478 TH RESPONDENT
BONGINKOSI TOKO	479 TH RESPONDENT
LERATO INNOCENTIA TSOTETSI	480 TH RESPONDENT
ESTHER THELMA VILAKAZI	481 ST RESPONDENT
DUDUZILE CYNTHIA ZUNGU	482 ND RESPONDENT
NKELI JAMES MAKUBUNG	483 RD RESPONNENT
AURELIA FIKILE	484 TH RESPONDENT

JUDGMENT

Molahlehi J

1. Before this court are two applications that were consolidated in the *rule nisi* issued by Keightley J on 5 June 2020. The applicant is the City of Ekurhuleni Metropolitan Municipality, a Metropolitan Municipality (the Municipality) established in accordance with the provisions of the Local Government:

Municipal Structures Act, of 1998. The individual respondents are, the individuals who are unlawfully occupying the houses at portion 102, Farm Holgatfontein 326 IR, NIGEL also known as "MACKENZIEVILLE EXTENSION 2."

2. It was indicated during oral submission that the Municipality was not persisting with paragraph 9 of the interim order made by Keightley J. This is the part of the order that declared any of the respondents who did not comply with the interim order to be in contempt of the order. Therefore, it follows that this matter turns mainly on whether the *rule nisi* relating to eviction should be confirmed.

3. The respondent opposed both applications and raised a point *in limine* concerning the non-joinder of the provincial and national government.

Background facts

4. It is common cause that the Municipality designed a housing development project with funding assistance from the provincial government. The project's objective is to meet the Municipality's constitutional duty under section 26 of the Constitution of providing residents falling within its jurisdiction housing at McKenzieville Extension 2. The project commenced in 2017 and was intended to provide housing for about 600 people. It is common cause that following applications by residents in the area the Municipality developed a list of individuals who qualified for housing subsidy.

5. The contractors appointed by the applicant had, by December 2019, managed to develop infrastructure for 568 stands and completed 51 houses, ready for occupation.

6. After December 2019, there was no progress in the project due to the expiry of the contractors' contracts. The other reason for the lack of progress was the National State of Disaster declaration under the Disaster Management Act 57 of 2002 by the State President in terms of which movements of people and gathering were restricted.

7. It is common cause that the respondents moved onto the land and occupied both the completed and incomplete housing structures in Mackenzieville Extension 2. Following this, the applicant obtained an order from this court authorising the South African Police and the Metro Police to attend at the site and identify those who had occupied the properties illegally and served them with the notice in terms of section 4(2) of the Prevention of Illegal Eviction from Occupation of Land Act (PIE Act).

8. It is common cause that during March 2020, the respondents invaded the complete and incomplete houses in the project. Those who occupied the incomplete structures completed them and fitted the windows and doors.

The respondent's defence

9. The respondents did not dispute that their conduct is unlawful. They contended that the Municipality is not entitled to evict them even though the

occupation of the property was unlawful. Their defence is that they moved into the area out of necessity, arising from the regulations governing COVID – 19 promulgated under the National State of Emergency Disaster Management Act 57 of 2020. The other reason for invading the properties is that they had been rendered homeless after being evicted as backyard dwellers from their previous rented premises. They further contended that the Municipality could not evict them unless alternative accommodation was made available, including engaging with them in discussions regarding the eviction.

The non-joinder point

10. The respondents contend that the applicant ought to have joined these proceedings both the national and provincial governments. The test for non-joinder is set out by the Supreme Court of Appeal in *Absa Bank Limited v Naude N.O and Others* (20264/2014) [2015] ZASCA 97; 2016 (6) SA 540 (SCA) (1 June 2015) in the following terms:

"[10] The test whether there has been non-joinder is whether a party has a direct and substantial interest in the subject matter of the litigation, which may prejudice the party that has not been joined. In *Gordon v Department of Health, KwaZulu-Natal* it was held that if an order or judgment cannot be sustained without necessarily prejudicing the interest of third parties that had not been joined, then those third parties have a legal interest in the matter and must be joined." (Footnotes omitted).

11. In *Judicial Service Commission and Another v Cape Bar Council and Another*,¹ the court held that:

"[12] It has by now become settled law that the joinder of a party is only required as a matter of necessity – as opposed to a matter of convenience – if that party has a direct and substantial interest which may be affected prejudicially by the judgment of the court in the proceedings concerned (see eg *Bowring NO v Vrededorp Properties CC 2007 (5) SA 391 (SCA)* para 21). The mere fact that a party may have an interest in the outcome of the litigation does not warrant a non-joinder plea. The right of a party to validly raise the objection that other parties should have been joined to the proceedings, has thus been held to be a limited one."

12. Applying the above test, in the present matter, I am of the view that the point raised by the respondents bears no merit. There are no facts supporting the contention that it was necessary to join the Provincial and National Government parties in these proceedings. Except that the Provincial Government provided funding for the project, there is nothing to show that it has a direct and substantial interest in the outcome of this matter.

The eviction application

13. I now turn to deal with the merits of the eviction application. I have already pointed out earlier that the Municipality has abandoned paragraph 9 of Keightley J's order.

¹ (818/2011) [2012] ZASCA 115; 2012 (11) BCLR 1239 (SCA).

14. In his oral argument, the respondents' Counsel emphasised that the Municipality was obliged to provide housing for the respondents in terms of section 26 of the Constitution. Section 26 of the Constitution provides:

- "(1) Everyone has the right to have access to adequate housing.
- (2) The state must take reasonable legislative and other measures within each available resources to achieve progressive realisation of this right.
- (3) No one may be evicted from their home or have their home demolished without an order of the court, made after considering all relevant circumstances. No legislation may permit arbitrary eviction."

15. The starting point in considering the relief sought by the applicant is whether there has been compliance with the provisions of section 4 of the PIE Act. Section 4(1), (2) and (3) of PIE Act provides:

- "(1) Notwithstanding anything to the contrary contained in any law or the common law, the provisions of this section apply to proceedings by an owner or person in charge of land for the eviction of an unlawful occupier.
- (2) At least 14 days before the hearing of the proceedings contemplated in subsection (1), the court must serve written and effective notice of the proceedings on the unlawful occupier and the municipality having jurisdiction.
- (3) Subject to the provisions of subsection (2), the procedure for the serving of notices and filing of papers is as prescribed by the rules of the court in question.

16. It is trite that once there has been compliance with the provisions of section 4 (2) of the PIE Act, the owner of the property cannot be denied the eviction order unless the respondents in opposing the relief disclose circumstances that will entitle them to remain on the property. In other words, upon satisfaction of the procedural requirements in the absence of special circumstances, the owner is entitled to the eviction order. *Ndlovu v Ngcobo Becker and another v Jika* 4 All SA384 [SCA at paragraph 17 to 19]²

17. It is trite that section 4 of PIE Act does not deprive the owner of the ownership of the property that is the subject of unlawful occupation. As stated in *Ndlovu v Ngcobo* the effect of the PIE Act is to delay or suspend the exercise of the ownership rights of the landowners until a determination has been made, whether it is just and equitable to evict the unlawful occupiers and under what conditions.

18. As stated in *Dwele v Phalatse and Others* (11112/15) [2017] ZAGPJHC 146 (7 June 2017)³, section 4 of the PIE Act contains both procedural and substantive provisions. The procedural provisions are found in sections 4(2), (3), (4) and (5), and the substantive provisions are in sections 4(6), (7), (8) and (9) of the PIE Act.

19. In the present matter, there is no dispute about the procedural aspects of section 4 of PIE. The relief sought by the applicant, which the respondents oppose,

² 4 All SA384 [SCA at paragraph 17 to 19

³ (11112/15) [2017] ZAGPJHC 146 (7 June 2017)

has to do with the substantive provisions of section 4 of PIE. In this respect, sections 4(6), (7), (8) and (9) of PIE Act read as follows:

- "(6) If an unlawful occupier has occupied the land in question for less than six months at the time when the proceedings are initiated, a court may grant an order for eviction if it is of the opinion that it is just and equitable to do so, after considering all the relevant circumstances, including the rights and needs of the elderly, children, disabled persons and households headed by women.
- (7) If an unlawful occupier has occupied the land in question for more than six months at the time when the proceedings are initiated, a court may grant an order for eviction if it is of the opinion that it is just and equitable to do so, after considering all the relevant circumstances, including, except where the land sold in a sale of execution pursuant to a mortgage, where the land has been made available or can reasonably be made available by a municipality or other Organ of State or another landowner for the relocation of the unlawful occupier, and including the rights and needs of the elderly, children, disabled persons and households headed by women.
- (8) If the court is satisfied that all the requirements of this section had been complied with and that no valid defence has been raised by the unlawful occupier, it must grant an order for the eviction of the unlawful occupier, and determine-
 - (a) a just and equitable date on which the unlawful occupier must vacate the land under the circumstances; and

- (b) the date on which an eviction order may be carried out if the unlawful occupier has not vacated the land on the date contemplated in paragraph (a).

In determining a just and equitable date contemplated in subsection (8), the court must have regard to all relevant factors, including the period the unlawful occupier and his or his family have resided on the land question."

20. It is trite that in determining whether or not to grant an eviction order, the court has a discretion to be exercised, guided by what is just and equitable. See *Ndlovu v. Ngcobo; Bekker and Another v. Jika* 2004 (1) SA 114 (SCA) para 18. In determining whether there are just and equitable grounds to grant an eviction order, the court is obliged to have regard to all the relevant circumstances, including the availability of land for the relocation of the occupiers and the rights and needs of the elderly, children, disabled persons and households headed by women. The court is obliged to grant an eviction order if there is no valid defence and all the substantive requirements of section 4 of PIE are satisfied.

21. The inquiry following the above finding concerns the equitable date on which the unlawful occupier or occupiers must vacate the property. The date chosen for the eviction of the illegal occupiers has to be just and fair to all parties.

22. The relevant facts and circumstances in this matter that have to be taken into account in considering the relief sought by the applicant are the following. As stated earlier, it is common cause that the respondents unlawfully occupied the completed

and incomplete structures in the area. It is also common cause that, except for a few, most of them are not on the list of beneficiaries. However, those whose names appear on the beneficiaries' list also did not act lawfully in occupying the houses before being properly allocated by the Municipality. It is apparent that the structures were not yet certified ready for occupation, neither were any of them provided with the certificate of occupancy. It, therefore, cannot be said that they are lawful occupiers.

23. When invading the, arear the respondents were fully aware that they were not on the list of beneficiaries. Their papers reveal that they were aware that other people in the area had successfully applied for the subsidy and were already on the waiting list.

24. In my view, the respondents' conduct should not be countenance by this court because otherwise, the rule of law would be compromised. In *Lesapo v North West Agricultural Bank and Another* (CCT23/99) [1999] ZACC 16; 2000 (1) SA 409; 1999 (12) BCLR 1420 (16 November 1999) the Constitutional Court per Mokgoro J said:

"No one is entitled to take the law into her or his own hands. Self-help, in this sense, is inimical to a society in which the rule of law prevails, as envisioned by section 1(c) of our Constitution, which provides:

'The Republic of South Africa is one, sovereign, democratic state founded on the following values:

.....

(c) Supremacy of the Constitution and the rule of law."

Taking the law into one's own hands is thus inconsistent with the fundamental principles of our law."

25. In addition to the defence of necessity, the respondents suggested that they were entitled to unlawfully occupy the properties because some of the Municipality officials were involved in fraudulent conduct about the development of the housing beneficiary list. They allege that one of the officials in the housing department was dismissed for being involved in fraud. This has not been substantiated in that there is no supporting documentary proof or supporting affidavit that the person was dismissed for fraud related to the list of housing beneficiaries. But more importantly, there is no averment that the alleged fraudulent list was ever reported to the police. There is also no indication as to why legal steps could not have been taken to interdict the implementation of the list before resorting to self-help.

26. In the circumstances of this case, refusing to grant an eviction order would result in what the Constitutional Court in, *President of the Republic of South Africa and Another v Modderklip Boerdery (Pty) Ltd (Agri SA and Others, Amici Curiae)* 2005 (5) SA 3 CC at para 45)⁴ referred to as a recipe for anarchy. It would also create a precedent for people to jump the queue and qualify themselves through the back door onto the housing lists in the municipalities. The other risk associated with refusing to grant an eviction in the circumstances of this matter is that the use of self-help would result in people losing confidence in the rule of law, which will invariably lead to unwanted public violence. This applies to the respondents' argument that they should only be evicted on condition the Municipality provides them with alternative accommodation.

⁴ 2005 (5) SA 3 CC at para 45)

27. As indicated earlier, the respondents' Counsel argued that the respondents had the right to housing in terms of section 26 of the Constitution, and I suppose that is why they should not be evicted until alternative land is found for them. However, the right is limited "within available resources to achieve the progressive realisation of this right."

28. The circumstances in the present matter is distinguishable to those in *Ekurhuleni Metropolitan Municipality and Another v Various Occupiers, Eden Park Extension 5 2014 (3) SA 23 (SCA)* wherein the Supreme Court of Appeal found that the Municipality had "displayed uncertainty as to the identification of those persons who were to be evicted and the integrity of the waiting list and the allocation process had been compromised." In the present matter, the Municipality engaged the services of the police to identify the people who had illegally moved in the area, and there is no issue about the integrity of the process embarked upon in evicting all the illegal occupiers of the structures. It also important to note that at the time the Municipality instituted the eviction proceedings the respondents had taken possession of the properties for less than six months.

29. In light of the above, I am of the view that the applicant has made out a case that it is just and equitable to evict the respondents from Mackenzi Extension 2. In other words, the Municipality made out a case for the confirmation of the *rule nisi*. In light of this and as already alluded to earlier, there is no need to deal with the issue of the interdict.

30. The issue that remains for determination is the date of the eviction. As alluded to earlier the respondents unlawfully took occupation of the properties that belonged to the Municipality. At the time of taking occupation of the properties they were aware that it was unlawful for them to do so. In this context it is just and fair to afford them a period of thirty days to vacate the properties in question.

31. In relation to costs of the applications, the Municipality's Counsel conceded that in the circumstances of this case it would not be appropriate to allow the costs to follow the results.

Order

32. In the premises, the following order is made:

1. An order for the eviction of the First, Fourth to Four Hundred and Eighty Fourth Respondents and all those occupying the properties through and under them at the properties described as portion 102, of the farm Holgatfontein 326 IR, Nigel also known as Mackenzieville Extension 2 is granted.
2. The First and Fourth to Four Hundred and Eighty Fourth Respondents and all those claiming occupation through and under them are ordered to vacate the property by **7 July 2021**.
3. In the event where the First, Fourth to Four Hundred and Eighty Fourth Respondents and all those claiming occupation through and under them failing to comply with the order set out above, then and in that event, the City of Ekurhuleni Police Services and or the South African Police Services and or assisted by the Sheriff of this Court or his lawful

deputy and a Locksmith are ordered and directed to carry out the eviction order on or after **14 July 2021**.

4. In the event where the First and Fourth to Four Hundred and Eighty Fourth Respondents and all those that occupy the property by virtue of, through or under them attempt to regain access or possession to the property after the eviction order has been executed by the Sheriff and/or his/her authorised deputy; the applicant does not need to approach this court for relief and the City of Ekurhuleni Police Services and or the South African Police Services and or assisted by the Sheriff of this Court or his lawful deputy and a Locksmith Sheriff and/or his/her authorised deputy are authorised and directed to take all legal steps to enforce this Court order once again, including enlisting the services of the South African Police Services and a Locksmith.
5. There is no order as to costs.

E MOLAHLEHI J

Judge of the Gauteng High Court.

APPEARANCES

For the applicant: Adv. E Sithole

Instructed by: Lebea Incorporated Attorneys

For the Respondent: Adv. D Brown

Instructed by. Chris Billing Attorneys

Heard: 31 May 2021

Delivered: 9 June 2021