

REPUBLIC OF SOUTH AFRICA



IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, JOHANNESBURG

CASE NO: A2023-005472

- (1) REPORTABLE: Yes / No
(2) OF INTEREST TO OTHER JUDGES: Yes / No
(3) REVISED: Yes / No

Date: 19 September 2023 WI

In the matter between:

LUYANDA NTSWAYI

APPELLANT

and

NONTOKOZO NTSWAYI

RESPONDENT

JUDGMENT

DU PLESSIS AJ

- [1] This is an appeal against the judgment of Magistrate Mkata, sitting as the court of first instance at Booyens. The issues in this appeal dealt with the future maintenance of the parties' children, and particularly whether the magistrate was correct in ordering that the Appellant's share of the proceeds of the sale of the parties' immovable property be attached for purposes of paying for the future maintenance of the children. The order of current and future maintenance in a lumpsum was also appealed.

- [2] When the hearing commenced, the Respondent was not present. There was a notice of set down uploaded on CaseLines. There was no official service on the Respondent, but she did sign the notice of set down delivered at her home by hand. There was no notice of intention to oppose. We thus continued on an unopposed basis.
- [3] After hearing the Appellant, we reserved judgment. We had to recall the matter when the Respondent turned up in person at the court. The Respondent turned up at court on time but could not find the court as the matter was heard online. She eventually contacted Acting Judge Moorcroft's registrar, who assisted her in joining online.
- [4] She addressed the court, stating that she could not afford legal services. She did ask an attorney for help but was told that she must just come in and listen in and that they would take it from there. She states that the appeal must fail as she has something to argue.
- [5] The matter was then removed from the roll. Moorcroft AJ stated that he will refer the matter to the bar to see if an advocate cannot assist as the issues are intricate legal issues. The interests of the children are involved.
- [6] In response to the removal, the Appellant stated that they spoke to the Respondent's attorneys but they did not respond. They, therefore, ask for costs. However, in these circumstances it is more prudent to reserve the costs so that argument can be made on behalf of the Respondent when the matter is heard.

[1] Order

[7] I, therefore, make the following order:

1. The matter is removed from the roll, costs are reserved.

WJ DU PLESSIS

Acting Judge of the High Court

I Agree

J MOORCROFT

Acting Judge of the High Court

Delivered: This judgement is handed down electronically by uploading it to the electronic file of this matter on CaseLines. It will be sent to the parties/their legal representatives by email.

Counsel for the Appellant:	Mr T Qhali
Instructed by:	Ramoromisi Attorneys
Counsel for the respondent:	No appearance, self represented
Instructed by:	No appearance
Date of the hearing:	08 August 2023
Date of judgment:	19 September 2023