



**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG LOCAL DIVISION, JOHANNESBURG**

<u>DELETE WHICHEVER IS NOT</u>	
<u>APPLICABLE</u>	
(1)	REPORTABLE: No
(2)	OF INTEREST TO OTHER JUDGES: No
(3)	REVISED: No
27/09/2023	_____
DATE	SIGNATURE

CASE NO: 20150/2021

In the matter between:

LESLEY NKHUMBULENI RAMULIFHO

Applicant

and

GROUNDUP NEWS NPC

First Respondent

NATHAN GEFFEN

Second Respondent

RAYMOND JOSEPH

Third Respondent

THE SOUTH AFRICAN LEGAL PRACTICE COUNCIL

Fourth Respondent

CHAIRPERSON OF THE SOUTH AFRICAN

LEGAL PRACTICE COUNCIL

Fifth Respondent

MR Y MAYET

Sixth Respondent

GAUTENG PROVINCIAL LEGAL PRACTICE COUNCIL

Seventh Respondent

JUDGMENT

YACOOB J:

1. The applicant, Mr Ramulifho, seeks leave to appeal the judgment of this court handed down on 24 May 2023, reviewing setting aside a decision of the fourth respondent the LPC which dismissed a complaint against Mr Ramulifho, and

remitting the complaint back to the LPC to carry out a proper investigation. The second and third respondents, Mr Geffen and Mr Joseph, were the complainants before the LPC, and they, together with the first respondent, GroundUp, were the applicants in the review application.

2. The parties agreed that they would submit written argument and that the application for leave should be determined without oral argument, unless I determined that oral argument was necessary after reading the written submissions. The application for leave is therefore dealt with without oral argument.
3. The grounds of appeal are, essentially, that the court was wrong in every finding. Even though four main grounds are identified, Under each heading in the notice of application for leave to appeal there are assertions that the court erred in every finding or conclusion.
4. I do not propose to go through each of the assertions. The judgment stands for itself and I am satisfied that, in the main, there is no merit in the numerous assertions that the court erred.
5. The notice correctly brings to my notice one factual error that I made in the judgment. That is, that the applicant acted as his own attorney in the application against GroundUp to have articles removed from GroundUp's website. This was an error that crept in, for which I apologise. It is correct that the applicant's firm was a co-applicant and that another firm represented them. However, I do not consider that that error results in any change to the outcome.

6. Even though the error resulted in an impression that the conduct complained of was done in the applicant's capacity as an attorney, that was not the case brought by the respondents, nor was it the basis of this court's finding. The conduct complained of still raises the question of honesty and integrity of an officer of the court in court proceedings. There cannot be two standards of honesty for an officer of the court, one where he is litigant in his own capacity and one where he litigates in his capacity as an attorney. Legal representatives are individuals, and for the courts and the public to be able to rely on them their honesty must stand up to examination on every level.
7. The written submissions go into the merits of the complaint, which are not before the court, in great detail. To the extent that the leave to appeal relies on the merits of the complaint, I do not consider those grounds, as the merits are not before me and I did not consider them.
8. The first ground of appeal is that, having found that the second and third respondents (who were applicants in the main application) had *locus standi*, I did not consider whether the first respondent (applicant) had *locus standi*. This, the applicant submits, is an error because the applicant is now ordered to pay the costs of the first respondent when the application against the first respondent should have been dismissed.
9. I do not consider that this ground is sufficient on its own to found an appeal. It does not change the outcome, and the main application would not have been substantively different had the first respondent not been involved. The only costs would have been those occasioned by the applicant raising this point. And the

only consequence of the finding is costs related. It is trite that leave to appeal a costs order is not generally granted.

10. However, if I find merit in the other grounds then the applicant may obviously pursue the appeal on this point too.

11. The second ground of appeal identified by Mr Ramulifho is that there are investigations pending in other fora, in particular, that the second and third respondents have laid charges against him. He argues now in the application for leave that his right to self-incrimination may be impacted if he is compelled to produce documents. That may be so. However, if that happens, Mr Ramulifho may well, if the criminal investigation is proceeding, decline to produce documents on that basis. This does not preclude the LPC from investigating, and as pointed out in the founding affidavit, the investigation could also include obtaining information from other people.

12. The issue here is the protection of the public from a potentially dishonest legal practitioner, and that has to be an extremely high priority. It is not enough to await the outcome, if any, of a criminal investigation. If Mr Ramulifho claims protection of his rights in terms of section 35 of the Constitution, that can be dealt with in due course. Legal practitioners who may be subject to criminal investigations cannot prevent the Legal Practice Council from acting simply because those investigations are pending. There is no merit in the second identified ground of appeal

13. The third identified ground is that the complaint was incompetent, based on hearsay, conjecture and unsupported opinion, and therefore that there was not

even a *prima facie* case. The main basis on which this ground is founded is that, where there is only hearsay, conjecture and unsupported opinion, the LPC cannot be expected to expend its resources on further investigations. For the reasons contained in the main judgment, I am not satisfied that another court would have come to a different conclusion on this issue.

14. The applicant mistakenly relies on the allegations that the complaint was based on hearsay, conjecture and unsupported opinion to assert that the founding affidavit also contained hearsay, conjecture and unsupported opinion and therefore that there was no undisputed version before me. Taking into account that I did not deal with the merits, and the only “version” I was considering was the nature of the complaint and the manner it was dealt with, there is clearly no merit to this assertion.

15. The final identified ground is that there is an internal remedy available to the respondents, and that the court should have stayed proceedings and directed the respondents to approach the LPC Appeal Tribunal. There was no internal remedy available at the time the review was instituted. Directing the respondents to approach the Appeal Tribunal after the application was already heard would not, in my view, have been in the interests of justice nor do I consider that another court would find differently in the circumstances of this case. The applicant chose not to put facts before the court which may result in the court exercising its discretion in his favour, on this point or any other, and bears the consequence of that choice.

16. I am therefore not satisfied that the applicant has established that another court would come to a different conclusion. There is some suggestion in the written submissions that, because the functions of the Legal Practice Council require new legislation to be considered and new legal points to be established, leave should be granted. I do not consider that this is the case in which that should be done, especially since none of the principles set out in the main judgment are especially novel.

17. I make the following order:

The application for leave to appeal is dismissed with costs.

S. YACOOB
JUDGE OF THE HIGH COURT
GAUTENG LOCAL DIVISION, JOHANNESBURG

Appearances

Counsel for the applicant: N Ferreira and I Cloete

Instructed by: Lionel Murray Schwormstedt & Louw

Counsel for the fifth respondent: R Schoeman

Instructed by: Elliot Attorneys Inc

Date of judgment: 27 September 2023

