Editorial note: Certain information has been redacted from this judgment in compliance with the law.

REPUBLIC OF SOUTH AFRICA

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, JOHANNESBURG

(1) REPORTABLE: YES / ~~NO~~ (2) OF INTEREST TO OTHER JUDGES: YES/~~NO~~ (3) REVISED. **.....** **28 APRIL 2023** **SIGNATURE** **DATE**	**Case No: 32377/2012**

In the matter between:

L[…] G[…] **APPLICANT**

And

J[…] G[…] **RESPONDENT**

Neutral Citation: *L. G v J. G* (2012/32377) [2023] ZAGPHJHC 450 (28 April 2023)

Summary: Procedural law – Application for security for costs pending an appeal to the Full Court – Uniform rule 49(13) peremptory and obliges an appellant to provide security unless the respondent waives security or the appellant is released from providing security – Supreme Court of Appeal rule 9 not applicable to security for costs in pending appeals in the high court – Application granted and respondent ordered to provide security for costs.

ORDER

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1. The respondent is ordered to provide security for costs pending the appeal before the Full Court.

2. In terms of rule 49(13)*(b)* of the Uniform Rules of Court the registrar shall fix the form, amount, and manner of the security and the respondent shall enter into security so fixed, within 30 (thirty) days of the registrar's determination.

3. No order as to costs.

JUDGMENT

Windell J

Introduction

[1] This is an application for the payment of security for costs in terms of Uniform rule 47(3). The application is brought pending an appeal to the Full Court of this division against the judgment of Kemack AJ, in which the learned judge dismissed an application to rescind a judgment against the respondent, Mr J[...] G[...].

[2] Although the background facts are common cause, it is necessary to briefly refer to the chronology of events that led to the current application. On 29 November 2017, a contempt of court order was granted against the respondent by Keightley J. The respondent was sentenced to 3 (three) months' imprisonment, suspended for 14 (fourteen) days, on condition that he pays the applicant (his wife), Mrs L[...] G[...], the sum of R 1 150 957.52 in respect of arrear maintenance. The respondent did not comply with the order, but instead launched an application on 12 December 2017, to rescind the contempt order. On 10 October 2019, Kemack AJ dismissed the rescission application with costs (the rescission judgment). On 31 October 2019, the respondent launched an application for leave to appeal the rescission judgment, which was refused by the court a quo. As a result, on 28 January 2021, the respondent petitioned the Supreme Court of Appeal (SCA) for leave

to appeal. On receipt of the application, the applicant's attorney sent a letter to the respondent's attorney calling on the respondent to 'put up security for the costs of the application to the SCA and any possible appeal in the sum of R 150 000.00'. The respondent did not put up any security.

[3] On 11 February 2021, the applicant served her answering affidavit opposing the respondent's petition to the SCA for leave to appeal and on 25 February 2021, the respondent filed a replying affidavit. On 18 March 2021, the SCA granted the respondent leave to appeal the rescission judgment to the Full Court of this division.

[4] On 12 May 2021, the applicant served a notice under rule 47(1) for the respondent to provide security. No security was provided by the respondent and on 8 June 2021, the applicant launched the current application under rule 47(3). She seeks an order compelling the respondent to provide security for costs of the appeal 'in the sum of R150 000,00 or such other sum as this court may determine', failing which she seeks an order that the appeal be dismissed. The grounds upon which the applicant claims security for the costs of the appeal are:

'1. The Appellant is a peregrinus of the Court, currently residing in Israel, and has been so residing for a period in excess of three (3) years;

2. The Appellant was placed into final sequestration in December 2017, and on his own version, does not have funds;

3. The Respondent currently has approximately 14 costs orders against the Appellant, which she has not been able to execute due to interpleader applications, or nulla bona returns of service;

4. The Appellant is in arrears with his maintenance obligations to the Respondent and their three minor children, in violation of various court orders, in excess of R5 million, and is paying no maintenance currently.'

[5] The respondent opposes the application on mainly two grounds. Firstly, it is contended that the applicant's reliance on rule 47 is misplaced as the rule, in its entirety, is not applicable to appeals. It is submitted that rule 49(13), read with Supreme Court of Appeal rule 9 (SCA rule 9), are applicable in the current circumstances, and as it was the SCA that granted leave to appeal and not the high court, it is only the former court that can order the respondent to provide security. Secondly, and only if it is found that the applicant utilised the correct procedure, it is contended that the application lacks merit, and should be dismissed.

Security for costs in pending appeals

[6] Rule 47 provides as follows:

'47 Security for costs

(1) A party entitled and desiring to demand security for costs from another shall, as soon as practicable after the commencement of proceedings, deliver a notice setting forth the grounds upon which such security is claimed, and the amount demanded.

(2) If the amount of security only is contested the registrar shall determine the amount to be given and his decision shall be final.

(3) If the party from whom security is demanded contests his liability to give security or if he fails or refuses to furnish security in the amount demanded or the amount fixed by the registrar within ten days of the demand or the registrar's decision, the other party may apply to court on notice for an order that such security be given and that the proceedings be stayed until such order is complied with.

(4) The court may, if security is not given within a reasonable time, dismiss any proceedings instituted or strike out any pleadings filed by the party in default, or make such other order as to it may seem meet.

(5) Any security for costs shall, unless the court otherwise directs, or the parties other-wise agree, be given in the form, amount and manner directed by the registrar.

(6) The registrar may, upon the application of the party in whose favour security is to be provided and on notice to interested parties, increase the amount thereof if he is satisfied that the amount originally furnished is no longer sufficient; and his decision shall be final.'

[7] Although rule 47(1) provides for 'a party entitled and desiring to demand security for costs' to deliver a notice setting forth the grounds upon which security is sought, the rule does not set out the grounds upon which a party is entitled to demand security for costs. Recourse must therefore be had to the 'common law and statutory provisions to determine the grounds upon

which security for costs could be demanded'.[1] Rule 49(13) on the other hand, specifically creates a right to security in the event of an appeal. It provides as follows:

'(13)(a) Unless the respondent waives his or her right to security or the court in granting leave to appeal or subsequently on application to it, has released the appellant wholly or partially from that obligation, the appellant shall, before lodging copies of the record on appeal with the registrar, enter into good and sufficient security for the respondent's costs of appeal.

(b) In the event of failure by the parties to agree on the amount of security, the registrar shall fix the amount and the appellant shall enter into security in the amount so fixed or such percentage thereof as the court has determined, as the case may be.'

[8] In *First Rand Bank Limited v Van der Merwe*,[2] Froneman J expressed the view that rule 49(13)*(a)* is ultra vires the powers of the Rules Board because the rule does not fall within the scope of its enabling legislation (s 6(1)*(m)* of Act 107 of 1985).[3] He was also of the view that the rule is inconsistent with s 34 of the Constitution, and, therefore, invalid. Although the learned judge indicated an intention to refer the matter to a Full Court to allow for various interested parties, including the Rules Board and the Minister of Justice to make submissions, that seemingly did not materialise. Recently, in *Dr Maureen*

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[1] See Van Loggerenberg *Erasmus Superior Court Practice* Service 20 (2022) at D-633; see also *ICC Car Importers (Pty) Ltd v A Hartrodt SA (Pty) Ltd* 2004 (4) SA 607 (W) at 615G.

[2] (959/2002) [2002] ZAECHC 23 (7 October 2002).

[3] Section 6(1)(m) of Act 107 of 1985 states that the Rules Board may make rules that regulate *'the manner of determining the amount of security in any case where it is required that security shall be given, and the form and manner in which security may be given.'*

Allem Inc v Baard,[4] the court found that rule 49(13)*(a)* does not infringe the right of access to the courts, but expressed doubts on the legality of the rule. A different view was however expressed in *Freedom Stationary (Pty) Ltd v Palm Stationary Manufacturers (Pty) Ltd*,[5] where the court held that rule 49(13) was not ultra vires nor unconstitutional.

[9] In the current application, however, the respondent only attacks the *procedure* the applicant utilised in seeking security, but does not dispute the legality of rule 49(13). In light of the conclusion that I reach in this matter, I do not deem it necessary to express any view on this issue.

[10] Although rule 49(13)*(a)* is prescriptive, it also provides the court with a discretion.[6] It states that an appellant *shall* enter into good and sufficient security for a respondent's costs of appeal, *unless*, two possible things occur: (1) the respondent waives his right to security; (2) the court, in granting leave to appeal or, subsequently on application to it, has released the appellant wholly or partially from that obligation.

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[4] 2022 (3) SA 207 (GJ).

[5] 2021 JDR 2251 (MN).

[6] The subrule was amended in October 1999 to empower the court to release the appellant wholly or partially from putting up security, after the court in *Shepherd v O'Niell* 2000 (2) SA 1066 (N), held that, to the extent that the previous subrule did not vest a court with the power to determine, in the exercise of its discretion, whether a particular appellant should be compelled to put up security and in what amount, it to be in conflict with the Constitution, and to that extent invalid. The previous rule 49(13) read as follows: *'Unless the respondent waives his right to security, the appellant shall, before lodging copies of the record on appeal with the Registrar, enter into good and sufficient security for the respondent's costs of appeal. In the event of failure by the parties to agree on the amount of security, the Registrar shall fix the amount and his decision shall be final.'*

[11] The respondent submits that rule 49(13) speaks of 'the court in granting leave to appeal *or subsequently on application to it'*, to mean that if it is the SCA that granted leave, such application cannot be brought in the high court. It is further argued that SCA rule 9 is apposite here. It reads as follows:

'Security

When required

(1) If the court which grants leave to appeal orders the appellant to provide security for the respondent's costs of appeal, then appellant shall, before lodging the record with the registrar, enter into sufficient security for the respondent's costs of appeal and shall inform the registrar accordingly.

Form or amount of security

(2) If the form or amount of security is contested, the registrar of the court *a quo* shall determine the issue and this decision shall be final'.

[12] It is contended that the express language of SCA rule 9 (1) envisages that an order for security of costs is to be made at, or after, the time when leave to appeal is granted by the SCA, but before the appeal record is filed. This means, so it is argued, that a respondent may, after the appeal record is filed, approach the SCA for an order that security for costs be given, provided that condonation is sought under SCA rule 11(1)*(b)*, which provides that 'the President or the Court may mero motu, on request or an application - ... (b) give such directions in matters of practice, procedure and the disposal of any appeal, application or interlocutory matter as the President or the Court may

consider just and expedient.' In other words, when leave to appeal emanates from the SCA, then security for costs of the appeal, whether to a Full Court or the SCA, is only applicable if an appellant is *ordered by the SCA* to give security. It is submitted that the respondent is therefore, in the absence of an order pursuant to SCA rule 9(1), under no legal duty to furnish security for costs in relation to any pending civil appeal to the Full Court or the SCA pursuant to leave to appeal being granted by the SCA under its rules and the law.

[13] The Uniform Rules of Court regulate the conduct of the proceedings of the several provincial and local divisions of the Supreme Court of South Africa. The word 'court' in the Uniform Rules of Court is defined in rule 1 as the high court.[7] Therefore, if when applying for leave to appeal in terms of rule 49(1), no application is launched as envisaged by rule 49(13)*(a)* to release the appellant wholly or partially from the obligation to give security, and leave is granted to the Full Court (as contemplated in rule 49(2)),[8] then the remainder of rule 49 is triggered, which sets out the procedure to be followed by the parties in the prosecution of their appeal before the Full Court. Such appellant may, however, after leave was granted, apply to the court (in that instance the high court) for an order to be released from providing security. If leave to

[7] As referred to in s6 of the Superior Courts Act 10 of 2013.

[8] Rule 49(2) states: 'If leave to appeal to the full court is granted the notice of appeal shall be delivered to all the parties within twenty days after the date upon which leave was granted or within such longer period as may upon good cause shown be permitted.'

appeal is granted by the high court to the SCA, and no application is brought by the appellant to be released from the obligation to provide security, whether at the time of the hearing of the leave to appeal or subsequently on application to it, it follows that the appellant must furnish security for its appeal before the SCA. The Supreme Court of Appeal Rules then governs the further prosecution of the appeal, and this is where SCA rule 9 comes into play.

[14] When interpreting a court rule, due regard must be given to its context and the context of its words, even when 'the words to be construed are clear and unambiguous'.[9] In *Independent Institute of Education (Pty) Ltd v Kwa-Zulu Natal Law Society*,[10] Theron J held:

'[38] It is a well-established canon of statutory construction that "every part of a statute should be construed so as to be consistent, so far as possible, with every other part of that statute, and with every other unrepealed statute enacted by the Legislature". Statutes dealing with the same subject-matter, or which are *in pari materia*, should be construed together and harmoniously. This imperative has the effect of harmonising conflicts and differences between statutes. The canon derives its force from the presumption that the legislature is consistent with itself. In other words, that the legislature knows and has in mind the existing law when it passes new legislation, and frames new legislation with reference to the existing law. Statutes relating to the same subject-matter should be read together because they should be seen as part of a single harmonious legal system' (footnotes omitted).

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[9] *Bato Star Fishing (Pty) Ltd v Minister of Environmental Affairs & Tourism* [2004] ZACC 15; 2004 (4) SA 490 (CC); 2004 (7) BCLR 687 (CC) at para 90.
[10] [2019] ZACC 47; 2020 (2) SA 325 (CC); 2020 (4) BCLR 495 (CC) at para 38-42.

[15] Rule 49(13) and SCA rule 9 deal with the same subject matter. Although there is some conflict between the two rules (discussed in more detail below), I am of the view that they can be construed together and harmoniously. As a starting point, and in considering the language used in SCA rule 9 using ordinary rules of grammar and syntax,[11] it seems that SCA rule 9 is only applicable to cases where leave to appeal was granted by the high court to the SCA, and not to cases where leave to appeal was granted by the SCA to the Full Court. This is firstly made clear by the rule itself, which states that if 'the court which grants leave to appeal orders the appellant to provide security for the respondent's costs of appeal, the appellant shall, before *lodging the record* (in the SCA) (SCA rule 8) with the *registrar*, (referring to the registrar of the SCA[12]), enter into sufficient security for the respondent's costs of appeal and shall inform the registrar accordingly'. Secondly, SCA rule 9(1) specifically refers to 'the court' and not 'the Court' (capital "C"). 'Court' in the definitions in SCA rule 1 means the Supreme Court of Appeal as referred to in s 5 of the Superior Courts Act 10 of 2013, whilst 'court', as previously mentioned, refers to the 'high court'.[13] In all instances in the SCA Rules where mention is made of 'Court' it is a reference to the SCA and where mention is made of 'court', it is a reference to the high court. SCA rule 9 therefore merely provides the

[11] *Natal Joint Municipal Pension Fund v Endumeni Municipality* [2012] ZASCA 13; 2012 (4) SA 593 (SCA).
[12] As defined in SCA rule 1 as the 'registrar of the Court and includes any acting or assistant registrar of the Court'.
[13] See n 7 above.

procedure for providing security in cases where the high court granted leave to the SCA.

[16] The conflict is, of course, that SCA rule 9(1) states 'if the court *orders* the appellant to provide security for the respondent's costs of appeal', creating the impression that an appellant need only provide security if 'ordered' by the court which grants leave to appeal' (ie the high court). In *Thoroughbred Breeders' Association v Price Waterhouse*,[14] the SCA held that:

'The days are long past when blinkered peering at an isolated provision in a statute was thought to be the only legitimate technique in interpreting it if it seemed on the face of it to have a readily discernible meaning. As was said in University of Cape Town v Cape Bar Council and Another 1986 (4) SA 903 (A) at 914D - E:

> "I am of the opinion that the words of s 3(2)(d) of the Act, clear and unambiguous as they may appear to be on the face thereof, should be read in the light of the subject-matter with which they are concerned, and that it is only when that is done that one can arrive at the true intention of the Legislature".'

[17] Context in this instance is important. In *Hoban v Absa Bank Ltd t/a United Bank*[15] Howie JA stated that 'context' includes the entire enactment in which the word or words in contention appear and in its widest sense will include enactments *in pari materia* and the situation or 'mischief' sought to be remedied. The SCA Rules were promulgated in 1998. That was at a time when

[14] [2001] ZASCA 82; 2001 (4) SA 551 (SCA).
[15] [1999] ZASCA 12; 1999 (2) SA 1036 (SCA) at 1044G–I.

the (now repealed) Supreme Court Act 59 of 1959 was still in operation, which provided in s 20 that 'the court granting leave to appeal leave may order the applicant to find the security for the costs of the appeal in such an amount as the registrar may determine, and may fix the time within which the security is to be found'.[16] The Superior Courts Act 13 of 2013 no longer contains such a provision, nor does the SCA Rules or the Uniform Rules of Court provide for a procedure in which the high court (or for that matter, the SCA), must first 'order' an appellant to provide security before security needs to be provided. The Uniform Rules of Court, however, provide for a procedure in which the high court may 'release' an appellant from the obligation to provide security (rule 49(13)*(a)*).

[18] In order for SCA rule 9(1) to make sense, the use of the word 'orders', must therefore be read to mean in instances where the high court did not *release* the appellant from providing security for costs, an appellant cannot lodge its record with the registrar at the SCA before security for costs has been provided. This interpretation of rule 9(1) gives effect to the rule and is harmonious and consistent with rule 49(13). Such interpretation also explains why SCA rule 9(2) provides that if the form of security is contested, the registrar of the *court a quo* shall determine the form or amount of security.

[16] The Supreme Court Act 59 of 1959 was repealed by s. 55(1)*(a)* of the Superior Courts Act 10 of 2013, with effect from 23 August 2013.

[19] But, what is the position where leave is refused in the high court but granted by the SCA? Neither the Superior Courts Act, nor the SCA Rules, nor the Uniform Rules of Court provide the answer. In my view, there are two possible scenarios. One, if the SCA grants leave to the SCA, it is the Supreme Court of Appeal Rules that governs the further prosecution of the appeal. In Erasmus Superior Court Practice[17] the authors remark, with reference to *Navigator, MV v Wellness International Network Ltd: MV Navigator (No 2)*,[18] that it appears as if an appellant can be ordered to find security for costs of appeal only by the President of the SCA or the SCA itself, but also remark that the position is 'not beyond doubt'.[19] Two, if the SCA grants leave to appeal to the Full Court, it is the Uniform Rules of Court that are applicable. It is in this context that rule 49(13) must be interpreted.

[20] Rule 49 governs *all* Full Court appeals in the high court. Rule 49(13) must therefore be given effect to when the SCA grants leave to appeal to the Full Court. In terms of this rule, an appellant '*shall* provide security before lodging copies of the record on appeal with the registrar', unless the respondent waive security or an appellant is released of such obligation. This approach to Rule

[17] Footnote 1 above, at C1-16/7.
[18] 2004 (5) SA 29 (C) at 34C-35I.
[19] The authors reference *Buttner v Buttner* [2005] ZASCA 86; 2006 (3) SA 23 (SCA) where the SCA did not consider the reasoning or the correctness of the conclusions in *Navigator, MV v Wellness International Network Ltd* (at 34C-35I).

49(13)*(a)* is sensible and also accords with the dictum in *Strouthos v Shear (Strouthos)*.[20]

[21] The facts in *Strouthos* are similar to the facts in the present matter. The respondent was found guilty of contempt of court and sentenced to a term of imprisonment. The respondent applied for leave to appeal that was refused. The SCA then granted the respondent leave to appeal to the Full Court. The applicant approached the high court for an order to compel the respondent to lodge security and leave to apply for the dismissal of the appeal on the same papers, duly supplemented, should the respondent fail to furnish security. The court held as follows:

'Since leave to appeal was granted by the Supreme Court of Appeal, or properly put, the President of that Court, it is only that Court that can *conceivably release the respondent* from his obligation to provide security, and the Court hearing the appeal accordingly does not have jurisdiction to do so. This much follows from a proper reading of the subrule. Should the appellant be so inclined he could apply to that Courts for such relief. In considering such an application the Court has a wide discretion which will be judicially exercised. (See *Chasen v Ritter* 1992 (4) SA 323 (SE); *Chopra v Sparks Cinemas (Pty) Ltd and Another* 1973 (2) SA 352 (D) and *Mynhardt v Mynhardt* 1986 (1) SA 456 (T).) However, until such time as such

[20] 2003 (4) SA 137 (T) at 140H. *Strouthos* was quoted with approval by the Full Court of the South Eastern Cape Local Division in *Kama and Others v Kama and Another* (1357/2005) [2007] ZAECHC 115 (6 September 2007). In that matter no security was put up and the respondent argued that the respondents were not obliged to furnish security in terms of rule 49(13). The court noted that rule 49(13)*(a)* is couched in peremptory terms and where security has not been furnished in terms of this rule 'such a failure may have fatal consequences as the appeal may be struck off the roll in the absence of condonation being granted' The appeal ultimately proceeded as the respondent waived the right to security in terms of rule 49(13)*(a).*

an order is obtained, the respondent is obliged to provide security, and this must be done before lodging copies of the record on appeal with the Registrar in terms of subrule 13(a).'[21]

[22] Whether an application to be released from security can only be brought to the court that granted leave to appeal, as held in *Strouthos*, is an issue beyond the scope of this judgment, as there is no application before this court to release the respondent from his obligation to provide security. However, the Full Court, in dealing with the appeal, will have the power to condone any non-compliance with the rules, including the failure to provide security in terms of rule 49(13)*(a)*.[22]

Enforcement of rule 49(13)

[23] What then is a respondent to do if an appellant refuses to provide security for costs in terms of rule 49(13)? Can the respondent utilise the procedure in rule 47 and apply for an order that the appellant must provide security pending an appeal?

[24] In light of the view that I take of this matter, it is not necessary to decide this issue. Rule 49(13) gives a respondent a 'right to security' and 'obliges' an appellant to provide security. As stated in *Carpe Diem*, 'It is the right of a respondent on appeal to go into an appeal secured, at least to the extent

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[21] Id at 140G-J.

[22] See *Carpe Diem Explorations (Pty) Ltd v Kasimira Trading 82 (Pty) Ltd and Others (Carpe Diem)* (A601/14) [2016] ZAGPPHC 1099 (14 December 2016) para 12.

provided by the Rules, against the inability of the appellant to pay costs if the appeal is unsuccessful'.[23]

[25] If security is not furnished, the appeal record may not be lodged. Without an appeal record, no date can be assigned for the hearing of the appeal (rule 49(7)*(c)*), and rule 49(7)*(d)* may apply. Moreover, if an appeal record was lodged without providing security first, it may constitute an irregular step (rule 30). As remarked in *Strouthos*:

'Obviously where no application is brought in terms of Rule 30 or where such an application is refused for whatever reason, the appeal will be proceeded with, and a respondent will then have to move for the appeal to be struck from the roll for want of compliance with the Rule as was done in *Boland Konstruksie Maatskappy (Edms) Bpk v Petlen Properties (Edms) Bpk* 1974 (4) SA 291 (C). This does not mean that an appellant is automatically released from his or her obligation to furnish security'.[24]

[26] Rule 49 does not provide a procedure to compel an appellant to provide security. The court can, however, regulate its own proceedings, including catering for circumstances not adequately covered by the Uniform Rules and generally ensuring the efficient administration of the courts' judicial functions.[25] The object of the rules of court is to secure the inexpensive and expeditious completion of litigation before the courts: they are not an end in themselves. The rules should therefore be interpreted and applied in a spirit

[23] Id at para 12.
[24] *Strouthos* n 20 above.
[25] *Eke v Parsons* [2015] ZACC 30; 2016 (3) SA 37 (CC); 2015 (11) BCLR 1319 (CC);.

which will facilitate the work of the courts and enable litigants to resolve their disputes in as speedy and inexpensive a manner as possible.[26]

[27] As rule 49(13)*(a)* is peremptory, it is not strictly necessary to grant any order in the current circumstances.[27] But, to enable the parties to move forward and to avoid further unnecessary costs, I am inclined to grant an order to compel the respondent to provide security for the pending appeal.

Costs

[28] Although the stance adopted by the respondent, namely that it is only the SCA that can order him to provide security, is, in my view, clearly wrong, I am not disposed to allow the applicant's costs of the application.

[29] The applicant made no reference to rule 49(13) in the rule 47(1) notice or in the subsequent rule 47(3) application. In fact, it appears as if the applicant was unaware of the provisions of rule 49(13) when the current application was launched. The respondent, on the other hand, was acutely aware of the provisions of this rule and raised it pertinently in its heads of argument.

[30] In the result the following order is made:

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[26] Id at para 40.
[27] See in this regard the comments by Daniel J in *Strouthos* n 20 above at 141F-H.

1. The respondent is ordered to provide security for costs of the pending appeal before the Full Court.

2. In terms of rule 49(13)*(b)* of the Uniform Rules of Court the registrar shall fix the form, amount, and manner of the security and the respondent shall enter into security so fixed, within 30 (thirty) days of the registrar's determination.

3. No order as to costs.

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L WINDELL

JUDGE OF THE HIGH COURT

JOHANNESBURG

Delivered: This judgement was prepared and authored by the Judge whose name is reflected and is handed down electronically by circulation to the Parties/their legal representatives by email and by uploading it to the electronic file of this matter on CaseLines. The date for hand-down is deemed to be 28 April 2023.

APPEARANCES

Counsel for the applicant:	Mr R. Zimmerman
Attorney for the applicant:	Taitz & Skikne Attorneys
Counsel for the respondent:	Professor F. Moosa
Attorney for the respondent:	Moosa & Pearson Inc.
Date of hearing:	7 February 2023
Date of judgment:	28 April 2023