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

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

(1) Reportable: Yes

(2) Of interest to other Judges: Yes

(3) Revised: Yes

Date: 11/07/2023

CASE NO: 2021/56157

In the matter between:

T, L Applicant

and

T, N A Respondent

Summary: Practice – Procedure – Rule 42(1)(a) - Variation of divorce order - procedurally regular judicial process followed by plaintiff in terms of rules of court - defendant's default of appearance owing to failure by his attorney of record to inform him of hearing date - failure by defendant's attorney to follow his instructions not falling within ambit of sub-rule - fact that plaintiff and court granting order unaware that defendant's default of appearance not *wilful* not amounting to a procedural irregularity or mistake in respect of the issue of the order – application dismissed.

J U D G M E N T

MAIER-FRAWLEY J:

1. The applicant and the respondent were previously married to one another. Their marriage was dissolved by decree of divorce in terms of an order granted by Dlamini J in this division on 13 May 2022.

2. The respondent (as Plaintiff) had instituted an action for divorce and ancillary relief against the applicant (as defendant). For convenience, the applicant will hereinafter be referred to as the defendant and the respondent will hereinafter be referred to as the plaintiff. The defendant appointed attorneys to represent him in the divorce proceedings and to this end, Khoza Geffen attorneys (the defendant's erstwhile attorneys) filed a notice of intention to defend the action on his behalf.[1]

3. Thereafter, the parties and their legal representatives attended a round table meeting at which time the prospect of settling the action was discussed. The meeting ended on the basis that the plaintiff's attorneys would forward a draft settlement agreement containing her settlement proposals to the defendant's erstwhile attorneys, whereafter the latter would deliver the defendant's response thereto within the timeframes agreed for the exchange of such documents at the meeting. The plaintiff's attorneys forwarded the plaintiff's settlement proposals within the agreed timeframe, however, the defendant's erstwhile attorneys failed to revert with the defendant's response thereto, either within the agreed timeframe, or at all. The plaintiff's attorneys addressed correspondence to the defendant's erstwhile attorneys calling for the defendant's response to the plaintiff's settlement proposals, which were, however, not forthcoming. Despite a notice of bar having thereafter been served on the defendant's erstwhile attorneys, no plea was filed within the time period provided in the notice and as such, the defendant became *ipso facto* barred from delivering a plea in the action.

[1] It is common cause that both parties were legally represented in the divorce action.

4. The plaintiff thereupon proceeded to set the divorce action down for hearing on the unopposed divorce roll. A notice of set-down in which the defendant was notified of the date of hearing of the action was duly served on the defendant's erstwhile attorneys. It is common cause that the defendant did not appear at the hearing of the matter on 13 May 2022, on which day the plaintiff sought and obtained an order as prayed for in her particulars of claim. The order made provision, amongst others, for the payment by the defendant of maintenance in respect of the minor child born of the marriage between the parties; spousal maintenance for a period of 24 months after divorce; all of the minor child's educational and related expenses; the plaintiff's costs of suit; and the retention of the plaintiff on the defendant's medical aid.

5. The defendant states that he found out about the order granted on 13 May 2022 when it was served upon him during July 2022.

6. Aggrieved by the payment obligations imposed upon him in terms of the order, the defendant now applies for the order to be varied only in so far as it pertains to:

   (i) the *amount* of maintenance payable by him on a monthly basis in respect of the minor child – in this regard, he wants the order varied to reflect that the maintenance payable by him in respect of the minor child be reduced from R5500.00 to R1500.00 per month;[2]

   (ii) the order obliging him to pay *all* the minor child's educational and related expenses – in this regard, he wants the order varied to reflect

[2] The reason given by the defendant for this variation is that '*I have always been solely responsible for the maintenance of my dear child without any issues... A Court Order to this effect is, therefore, unnecessary and academic, and it only stands, mala fide, to prejudice me as it exposes me to contempt of Court proceedings whilst I have never refrained from nor refused to maintain my dear child*.'

that *both parties are jointly responsible for payment* of the minor child's educational and related expenses;[3]

(iii) the order obliging him to pay spousal maintenance in the sum of R15 000 for a period of 24 months from date of divorce – in this regard, he wants the order varied to reflect that '*both parties forfeit their respective claims for spousal maintenance*';[4]

(iv) the order obliging him to pay the plaintiff's costs of suit – in this regard, he wants the order varied to reflect that *each party pay his/her own costs of suit*. [5]

7. The plaintiff filed a counter-application to vary that part of the order that provided for the defendant to retain the plaintiff on his medical aid for a period of 6 months after divorce. The reason given for the variation was that the plaintiff had procured her own medical aid by virtue of employment she obtained subsequent to the divorce. The counter-application was not opposed. At the hearing of the matter, the parties were agreed that the order sought by the plaintiff has been rendered moot, given that the 6 month period provided for in the order has long since expired. In the light

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[3] The reason given by the defendant for this variation is that '*Respondent [plaintiff] has been employed at Siyanda Bakgatla Platinum Mine for over ten (10) months now and is able to contribute towards the maintenance of our dear child which includes educational expenses. It is rather unfair and without sound basis to have myself ordered to solely be responsible for such expenses without a just and equitable reason as to why the Respondent should be exempted from this natural responsibility. It is worth mentioning that the reason I was previously solely responsible for the upkeep of our matrimonial home and the maintenance of both the Respondent and our dear child was due to the Respondent previously being a stay-at-home mother by mutual agreement. She is, however, now able to contribute to our dear child's maintenance and I humbly submit that there is currently no sound or lawful reason for her to be exempted*.'

[4] The reason given by the defendant for this variation is that '*the Respondent [plaintiff] has been employed for over ten (10) months now and she currently resides in a house which has been provided and subsidized by her employer. She is also getting contribution from me for all the needs of our dear child which includes payment of the nanny's salary. The Respondent is, therefore, not in need of maintenance*.'

[5] The reason given by the defendant for this variation is that the '*Respondent [plaintiff] is not in need of contribution from me towards her legal costs as she is comfortably employed and it is not in the interest of justice for me to bear the legal costs under the circumstances*.'

thereof, the relief sought in the counter-application was effectively abandoned at the hearing of the matter.

8. The main application is brought in terms of Rule 42(1)(a) of the Uniform rules, which provides as follows:

> "(1) The court may, in addition to any other powers it may have, mero motu or upon the application of any party affected, rescind or vary—
> (a) an order or judgment erroneously sought or erroneously granted in the absence of any party affected thereby;"

9. It is important to appreciate that a litigant seeking a variation order in terms of this sub-rule may only do so where certain grounds have been met. These are either that the party who applied for the order had sought the wrong order, in error, or that the court granted the wrong order, in error, in the absence of the party affected thereby. As pointed out by the Constitutional Court in *Zuma*,[6] 'suffice to say that these grounds are particularly, and deliberately, narrow in scope in order to preserve the doctrine of finality and legal certainty.'

10. In *Colyn v Tiger Food Industries Ltd t/a Meadow Feed Mills Cape*[7], the Supreme Court of Appeal cautioned that whilst rule 42(1)(a) caters for 'mistake,' rescission or variation does not follow automatically upon proof of a mistake. The rule gives the courts a discretion to order it, which must be exercised judicially.[8] Not every mistake or irregularity may be corrected in terms of the rule. Because it is a rule of court, its ambit is entirely procedural.[9] In Colyn's case, the pivotal question was whether the facts upon

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[6] *Zuma v Secretary of the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector Including Organs of State and Others* [2021] ZACC 28, par 9, fn 7.

[7] *Colyn v Tiger Food Industries Ltd t/a Meadow Feed Mills Cape* (127/2002) [2003] ZASCA 36; [2003] 2 All SA 113 (SCA) (31 March 2003)

[8] Id par 5

[9] Id par 6

which the defendant relied upon gave rise to the sort of error for which rule 42(1)(a) provides and, if so, whether the order was erroneously sought or erroneously granted because of it.[10] The court concluded at par 9 of the judgment that:

"The defendant describes what happened as a filing error in the office of his Cape Town attorneys. That is not a mistake in the proceedings. However one describes what occurred at the defendant's attorneys' offices which resulted in the defendant's failure to oppose summary judgment, it was not a procedural irregularity or mistake in respect of the issue of the order. It is not possible to conclude that the order was erroneously sought by the plaintiff or erroneously granted by the judge. In the absence of an opposing affidavit from the defendant there was no good reason for Desai J not to order summary judgment against him." (emphasis added).

11. Colyn's case was cited with approval by the Constitutional Court in Zuma *supra*[11] and still constitutes good law. The Constitutional Court indeed recognized that in certain instances, even when a party failed to oppose proceedings and was absent for reasons beyond their control, courts have held that the requirements of rule 42(1)(a) were not met (as was the outcome in Colyn's case). In dealing with the absence requirement in rule 42(1)(a), the Constitutional Court reaffirmed that 'the issue of presence or absence has little to do with actual, or physical, presence and everything to do

[10] The facts were recorded as follows in par 2 of the judgment:

"The present appellant was the defendant in an action instituted by the present respondent in which summary judgment was taken against him. I shall for convenience refer to the appellant as the defendant, and to the respondent as the plaintiff. The defendant, a dairy farmer of Vredendal in the Western Cape, was in dispute with his supplier of cattle fodder. He refused to pay for cattle fodder concentrate because, he says, it was defective and caused cattle disease in his herd with considerable concomitant loss. The supplier of the cattle fodder (the plaintiff) eventually issued summons against him out of the High Court in Cape Town for payment of R397 210.22. The defendant caused a notice of intention to defend to be filed by his attorneys, who have an office in Cape Town and also an office at Bellville. The plaintiff then filed an application for summary judgment and served it on the defendant's attorneys of record at their Cape Town office. That was the proper address for service in terms of rule 19(3). For reasons which are not clear the application papers were not forwarded to the Belville office to the attorney personally conducting the matter. The result was that the summary judgment application was not drawn to his or the defendant's attention. In consequence, no notice of intention to oppose was given and no opposing affidavit was filed. The plaintiff's attorney set the case down for hearing as an unopposed matter, and in due course on 4 August 2000 Desai J ordered summary judgment by default. It is accepted that the defendant wanted to defend the action and that he would have done so if the application had been brought to the attention of his attorney at Bellville."

[11] *Zuma* (above fn 2) at par 60 read with fn 28 thereto.

with ensuring that proper procedure is followed so that a party can be present, and so that a party, in the event that they are precluded from participating, physically or otherwise, may be entitled to rescission in the event that an error is committed.' (emphasis added)

12. As the defendant relies on dicta extrapolated from the *Zuma* case (albeit that such case concerned a rescission application) for purposes of arguing that he ought to be granted relief in terms of rule 42(1)(a), it is apposite to sketch the background matrix in that case to properly contextualize what was said by the Constitutional Court. It will be remembered that the court was not dealing with a litigant who was excluded from proceedings, or one who was not afforded an opportunity to participate on account of the proceedings being marred by procedural irregularities. Mr Zuma was given notice of the contempt of court proceedings launched by the Commission against him. He knew of the relief the Commission sought. Mr Zuma, whilst having the requisite notice and knowledge, *elected* not to participate in those proceedings. It is in that context that the Constitutional Court went on to say that 'I do not, however, accept that litigants can be allowed to butcher, of their own will, judicial process which in all other respects has been carried out with the utmost degree of regularity, only to then, *ipso facto* (by that same act), plead the "absent victim."'

13. In par 62 of the judgment, the constitutional court pointed out as follows:

'Mr Zuma's purported absence is not the only respect in which his application fails to meet the requirements of rule 42(1)(a). He has also failed to demonstrate why the order was erroneously granted. Ultimately, an applicant seeking to do this must show that the judgment against which they seek a rescission was erroneously granted because "there existed at the time of its issue a fact of which the Judge was unaware, which would have precluded the granting of the judgment and which would have induced the Judge, if aware of it, not to grant the judgment."' (emphasis added)

The court went on to say in par 63:

'It is simply not the case that the absence of submissions from Mr Zuma, which may have been relevant at the time this Court was seized with the contempt proceedings, can render erroneous the order granted on the basis that it was granted in the absence of those submissions. As was said in *Lodhi 2*:

'A court which grants a judgment by default like the judgments we are presently concerned with, does not grant the judgment on the basis that the defendant does not have a defence: it grants the judgment on the basis that the defendant has been notified of the plaintiff's claim as required by the rules, that the defendant, not having given notice of an intention to defend, is not defending the matter and that the plaintiff is in terms of the rules entitled to the order sought. The existence or non-existence of a defence on the merits is an irrelevant consideration and, if subsequently and, if subsequently disclosed, cannot transform a validly obtained judgment into an erroneous one."'

(footnotes omitted) (emphasis added)

Thus, the court concluded in par 64 of its judgment that:

"Thus, Mr Zuma's bringing what essentially constitutes his "defence" to the contempt proceedings through a rescission application, when the horse has effectively bolted, is wholly misdirected. Mr Zuma had multiple opportunities to bring these arguments to this Court's attention. That he opted not to, the effect being that the order was made in the absence of any defence, does not mean that this Court committed an error in granting the order. In addition, and even if Mr Zuma's defences could be relied upon in a rescission application (which, for the reasons given above, they cannot), to meet the "error" requirement, he would need to show that this Court would have reached a different decision, had it been furnished with one or more of these defences at the time." (emphasis added)

14. It is common cause *in casu* that no procedural mistake or irregularity occurred in the process that led to the action being heard in the defendant's absence on 13 May 2022. In this regard, the defendant agreed that 'the Respondent [plaintiff] followed the correct procedure and the court granted the order after scrutinizing the Respondent's procedure.' That the order granted was exactly the order requested by the plaintiff at the hearing of the action, is also not in dispute.

15. It bears mentioning that the defendant did not in his papers refer to or rely on the fact that he was *ipso facto* barred from delivering a plea, consequent upon which the divorce action proceeded on an unopposed basis.

16. The nature of the error relied on by the defendant herein is that his attorneys did not follow his instructions, being to 'defend and finalize' the matter, in that they failed to notify him of the date of hearing of the action on 13 May 2022 so that he could participate in the proceedings. Put differently, the contention is that 'the error in this regard is that the respondent [plaintiff], her legal representatives and the Honourable court operated with the understanding that the applicant [defendant] had been in default of defending the matter', whereas it was the defendant's erstwhile attorneys who failed to carry out his instructions and finalize the matter, therefore he was never in *wilful* default.

17. Reliance in this regard was placed by the defendant on what was said in *Christies* case,[12] namely:

> "This matter is to be distinguished from the case of Ex parte Jooste & 'n Ander, 1968 (4) SA 437 (O) where it was held that although the order originally granted was exactly the order requested by counsel, **such an order can be varied under the sub-rule by reason of the failure of the applicants' legal representatives to follow their instructions**. No similar situation presents itself in this matter. It is not the applicant's case that her legal representatives acted against her instructions." (emphasis added)

18. In *Christies* case, the party who had applied for a draft order to be made an order of court (i.e., the applicant), which contained only some but not all the clauses contained in a settlement agreement concluded with the opposite party, thereafter applied to court to vary the order by including two additional clauses from the settlement agreement (relating to the payment

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[12] *Christies v Christies* (705/2006) [2007] ZANCHC 18 (2 March 2007), par 7.

of alimony) and which had, for reasons unknown, been omitted from the draft when the initial court order was sought. The court held:

"The order she obtained was exactly the order requested by counsel. Without evidence to the contrary, it is difficult to conclude that the order was erroneously sought or erroneously granted. See First National Bank of South Africa v Jurgens & Others, 1993 (1) SA 245 (WLD):

> *'The ordinary meaning of* '*erroneous*' *is* '*mistaken*' *or* '*incorrect*'*. I do not consider that the judgment was* '*mistakenly sought*' *or* '*incorrectly sought*'*. The relief accorded to the plaintiff was precisely the relief that its counsel requested. The complaint now is that there is an omission of an accessory feature from the judgment. I am unable to perceive how an omission can be categorised as something erroneously sought or erroneously granted.' "*

It was in this context that the court in *Christies* case found that the facts in Christies case were distinguishable from the facts that presented in the *Ex Parte Jooste* case.

19. In *Ex parte Jooste & 'n Ander* 1968 (4) SA 437 (O), an order was granted subject to para 4 of the report of the Registrar of Deeds. The Applicants thereafter applied for an order that the order as granted should be altered by the deletion of the provision that the order was subject to the report of the Registrar of Deeds on the ground that it had been wrongly asked for, as the order as sought on their behalf by their legal representative did not accord with their instructions. The court held as follows:

"Hofreël 42(1)*(a)* maak ook voorsiening vir die wysiging van 'n bevel wat verkeerdelik aangevra of verkeerdelik gegee is in die afwesigheid van 'n party wat daardeur geraak word. Hofreël 42(1)*(c)* weer gee die Hof die reg om 'n bevel te wysig of te herroep wat gegee is as gevolg van 'n gemeenskaplike fout van die partye. Na my mening dek albei Reëls die geval waar daar slegs een party is, soos in *ex parte*-aansoeke, en 'n verkeerde bevel is gevra of een is gegee as gevolg van 'n fout van die aansoekdoener."[13]

[13] The English translation, as appears from the headnote, is that the court stated that Rule 42(1)(a) and 42(1)(c) cover the case where there is only one party, such as in ex parte applications, and a wrong order has been prayed for or granted as a result of an error on the part of the applicant.

20. In his founding affidavit, the defendant avers that since the plaintiff is now in gainful employment, she should contribute equally towards the minor child's maintenance, including the child's educational expenses and she is thereby also in a position to support herself without any need for spousal maintenance and likewise empowered with the means to pay her own costs of suit. These allegations were made ostensibly to justify the need for a variation of the order and/or to show that the court would have reached a different decision, had it been furnished with one or more of these 'defences' at the time. Suffice it to say that on the defendant's own version, the plaintiff's employment arose only after the grant of the divorce order in circumstances where the plaintiff had been a stay-at-home mother during the marriage and had, together with the minor child, been wholly supported financially by the defendant. The plaintiff's employment subsequent to the grant of the order was not a fact that was in existence at the time of the issue of the order and was therefore not something which could have precluded the granting of the judgment or which would have induced the court, if aware of it, not to grant the judgment.

21. As was pointed out by the Supreme Court of Appeal in *Rossitter v Nedbank Ltd*:[14]

> "Generally a judgment is erroneously granted **if there existed at the time of its issue** a fact which the court was unaware of, which would have precluded the granting of the judgment and which would have induced the court, if aware of it, not to grant the judgment. There can be no doubt that if the registrar had been made aware of the procedural defect in the rule 31(5)(a) notice, default judgment would not have been granted. In *Lodhi 2 Properties Investments CC v Bondev Development (Pty) Ltd* 2007 (6) SA 87 (SCA), Streicher JA held that if notice of proceedings to a party was required but was lacking and judgment was given against that party such judgment would have been erroneously granted. The following appears in para 24:
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> > 'Where notice of proceedings to a party is required and judgment is granted against such party in his absence without notice of the proceedings having been given to him such judgment is granted erroneously. That is so not only if

[14] *Rossitter v Nedbank Ltd* (96/2014) [2015] ZASCA 196 (1 December 2015) at para [16];

> the absence of proper notice appears from the record of the proceedings as it exists when judgment is granted but also if, contrary to what appears from such record, proper notice of the proceedings has in fact not been given. . . .'
>
> (emphasis added)

22. In *Lodhi 2 Properties Investments CC v Bondev Development (Pty) Ltd* 2007 (6) SA 87 (SCA), par 25, Streicher JA held that 'a judgment to which a party is procedurally entitled cannot be considered to have been granted erroneously by reason of facts of which the Judge who granted the judgment, as he was entitled to do, was unaware... See in this regard Colyn v Tiger Food Industries Ltd t/a Meadow Feed Mills (Cape) 2003 (6) SA 1 (SCA) in paras 9-10 in which an application in terms of rule 42(1)(a) for rescission of a summary judgment granted in the absence of the defendant was refused notwithstanding the fact that it was accepted that the defendant wanted to defend the application but did not do so because the application had not been brought to the attention of his Bellville attorney. This court held that no procedural irregularity or mistake in respect of the issue of the order had been committed and that it was not possible to conclude that the order had erroneously been sought or had erroneously been granted by the judge who granted the order.'

(emphasis added)

23. The defendant has failed to show that the court granting the decree of divorce made the wrong order, whether as a result of an error on the part of the plaintiff (being the party who applied for the divorce order in the absence of the defendant) or because the error relied on by the defendant would have precluded the granting of the order in question, had the court been made aware of it.[15] The error relied on by the defendant is that the court and the plaintiff were unaware that the defendant was not in *wilful* default of appearance at the hearing of the divorce action, given the failure of his erstwhile attorneys to inform him of the hearing date of the divorce and his desire to present his defence at the hearing. Whether such failure

[15] See *Daniel v President of the Republic of South Africa* 2103 (11) BCLR 1241 (CC), where the Constitutional Court stated that "*The Applicant is required to show that, but for the error he relies on, this Court could not have granted the impugned order. In other words, the error must be something this Court was not aware of at the time the order was made and which would have precluded the granting of the order in question, had the Court been made aware of it."*

occurred as a result of a mistake on the part of the defendant's erstwhile attorneys (which is questionable, given that the defendant had in any event been precluded from asserting a defence in the absence of the bar being uplifted by order of court) or something else, is impossible to determine on the papers.

24. Assuming that an error was committed by the defendant's erstwhile attorneys, the assumed error can in any event not assist the defendant herein in the light of his concession that the procedure followed by the applicant in setting the divorce action down for hearing was regular and correct. Put differently, the order was obtained was as a result of a procedurally regular judicial process, with proper and sufficient notice of the set-down of the matter having been given in terms of the rules of court. This means that the plaintiff was procedurally entitled to the order sought when it was granted. The fact that it subsequently transpired that the defendant was not in *wilful* default could not transform that order, which had validly been obtained, into an erroneous order.[16]

[16] See *Stander* v *ABSA Bank Bpk* 1997 (4) SA 873 (E), referred to in *Lodhi 2 Properties Investments CC v Bondev Development (Pty) Ltd* 2007 (6) SA 87 (SCA), par 26, where the Supreme Court of Appeal indicated as follows:

"*In Stander the plaintiffs who obtained an order in their favour was, unlike the UDF in Theron, procedurally entitled to the order when it was granted and the fact that it subsequently transpired that the defendants were not in wilful default could not transform that order, which had validly been obtained, into an erroneous order."* (emphasis added)

The court thus held, in para 27 of *Lodhi:*

"*Similarly, in a case where a plaintiff is procedurally entitled to judgment in the absence of the defendant the judgment if granted cannot be said to have been granted erroneously in the light of a subsequently disclosed defence. A court which grants a judgment by default like the judgments we are presently concerned with, does not grant the judgment on the basis that the defendant does not have a defence: it grants the judgment on the basis that the defendant has been notified of the plaintiff's claim as required by the rules...and that the plaintiff is in terms of the rules entitled to the order sought. The existence or non-existence of a defence on the merits is an irrelevant consideration and, if subsequently disclosed, cannot transform a validly obtained judgment into an erroneous judgment*." (emphasis added)

25. The order sought by the plaintiff at the hearing of the action was the exact order that was granted by the court. As such, the defendant has failed to demonstrate that an error was committed by the plaintiff in seeking the order as prayed for in her particulars of claim or that an error falling within the ambit of rule 42(1)(a), having regard to the authorities cited earlier in the judgment, was made by the court in granting the order.

26. It therefore follows that the application cannot succeed. Although I am cognizant of the fact that the defendant was let down by his erstwhile attorneys, I am not persuaded that the facts of this matter warrant a departure from the general rule that costs follow the result. Reliance on the case of *Ex Parte Jooste* case (referred to in *Christies* case) was misplaced for the simple reason that the facts in *casu* did not demonstrated that any error was committed by the party who applied for the divorce order that is now sought to be varied. Moreover, the defendant failed to demonstrate not only that the error relied on by him was of the nature of the mistakes that rule 42(1)(a) caters for, or that but for the error he relies on, the court could not have granted the impugned order.[17] The counter-application was not pursued at the hearing and consequently, I intend to make no order for costs in relation to the counter-application, which was unopposed.

27. Accordingly the following order is granted:

ORDER:

26.1 The main application is dismissed with costs.

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[17] See fn 10 above.

AVRILLE MAIER-FRAWLEY
JUDGE OF THE HIGH COURT,
GAUTENG DIVISION, JOHANNESBURG

Date of hearing:	17 May 2023
Judgment delivered	11 July 2023

This judgment was handed down electronically by circulation to the parties' legal representatives by email, publication on Caselines and release to SAFLII. The date and time for hand-down is deemed to be have been at 10h00 on 11 July 2023.

APPEARANCES:

Counsel for Plaintiff:	Adv SE Nhlabathi
Instructed by:	MS Msibi Attorneys Inc
Counsel for Defendants:	Adv X. Hilita
Instructed by:	Mamatela Attorneys Inc