



IN THE HIGH COURT OF SOUTH AFRICA  
(GAUTENG DIVISION, PRETORIA)

**DELETE WHICHEVER IS NOT APPLICABLE**

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

**CASE NO: B39194/2022**

29 March 2023

DATE

SIGNATURE

**UBOMI-TECH SECURITIES (PTY) LTD**

Applicant

and

**RICHARDS PARK BODY CORPORATE**

1<sup>st</sup> Respondent

**OTTO KRAUSE INC**

2<sup>nd</sup> Respondent

**MOKGOATJANA ATTORNEYS**  
Respondent

3<sup>rd</sup>

**THE SHERIFF HALFWAY HOUSE**  
Respondent

4<sup>th</sup>

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**JUDGMENT**

**LEAVE TO APPEAL**

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**COWEN J**

1. Richards Park Body Corporate and Mokgoatjana Attorneys apply for leave to appeal against my order of 6 December 2022, delivered in response to an application which I entertained on an urgent basis on 22 November 2022. I have considered each application in light of the grounds of appeal, the facts on record (including as formulated in the grounds of appeal), the submissions advanced and the requirements of section 16 of the Superior Courts Act 10 of 2013.
2. By the time the applications for leave to appeal were lodged, the limited stay of ten days had lapsed. Accordingly, the appeals, even if successful, would have no practical effect. However, I have approached the applications assuming this consideration should, in the circumstances of this case, be disregarded.
3. I have concluded that leave to appeal should be refused because the appeal would have no reasonable prospects of success and there is no other compelling reason why the appeals should be heard. On the costs order, which – it transpired during the hearing is the first respondent’s actual concern – I have considered whether, as submitted, costs should have been approached on the basis that the applicant was seeking an indulgence, and in consequence any reasonable costs of opposition be paid by the applicant.<sup>1</sup> The difficulty with this submission is that the decisive consideration in this case was the respondents’ own conduct in failing to regularise the attorneys’ position on record.
4. Any ambiguity or error in the reference to the parties in the order, introduced as a result of mistakes in the applicants’ papers, can sensibly be addressed via Rule 42(1)(b).
5. Accordingly:

5.1. The applications for leave to appeal are dismissed with costs.

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<sup>1</sup> Herbstein and Van Winsen's *The Civil Practice of the High Courts of South Africa*, Vol 2, p969 and cf *Stofberg NO and another v Capital Harvest (Pty) Ltd* [2021] ZAWCHC 37.



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SJ Cowen

Judge,  
Gauteng  
Division,  
Pretoria High  
Court.

Date of hearing: 3 March 2023

Date of judgment: 29 March 2023

Appearances:

Applicant: Mr Boshomane instructed by Qhali attorneys

First respondent: Mr Sefahamela instructed by Mokgoatjana

Attorneys Third respondent: Mr Ngwana instructed by

Mokgoatjana Attorneys