

REPUBLIC OF SOUTH AFRICA



IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

CASE NO: 79330/2018

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| (1) | REPORTABLE: Yes <input type="checkbox"/> / No <input checked="" type="checkbox"/>                  |
| (2) | OF INTEREST TO OTHER JUDGES: Yes <input type="checkbox"/> / No <input checked="" type="checkbox"/> |
| (3) | REVISED: Yes <input type="checkbox"/> / No <input checked="" type="checkbox"/>                     |

Date: 01 September 2023 WI

In the matter between:

**THEMBA BENEDICT LANGA**

**APPLICANT**

and

**SOUTH AFRICAN LEGAL PRACTICE COUNCIL**

**RESPONDENT**

in re:

**SOUTH AFRICAN LEGAL PRACTICE COUNCIL**

**APPLICANT**

and

**THEMBA BENEDICT LANGA**

**FIRST RESPONDENT**

**THEMBA LANGA INCORPORATED**

**SECOND RESPONDENT**

**LANGA INCORPORATED**

**THIRD RESPONDENT**

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**JUDGMENT**

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## **DU PLESSIS AJ**

- [1] The Applicant in this application is Mr Themba Benedict Langa, who was admitted as an attorney of court on 16 September 1997, practising for his own account since 1 February 1999. He was suspended by this court from practise as a legal practitioner on 27 November 2018 and removed from the roll on 31 March 2023 by order of this court. The Respondent in this application is the Legal Practice Council, a national statutory body established in terms of s 4 of the Legal Practice Act<sup>1</sup> to regulate the affairs of and exercise jurisdiction over, all legal practitioners and candidate legal practitioners. For ease of reference, I will refer to the parties as they were in the main application.
- [2] The application by the Legal Practice Council involved several complaints and allegations against the Respondent. These complaints are set out in the judgment. They will not be repeated here, save to say that there were 13 complaints and a report by an auditor setting out the accounting difficulties, including a trust deficit of more than R2,4 million. All these facts were laid before the court to exercise its discretion on whether the Respondent has the personal qualities concerning the prestige, status and dignity of the profession and the integrity and standards of professional conduct and responsibility expected from legal practitioners.
- [3] The main consideration for the court was whether the Respondent's actions and responses to the complaints reflect qualities suitable for practising law, with due regard to professionalism, ethics and the integrity of the legal profession.
- [4] The Respondent's explanation for the transgressions mainly centred around his situation post-sequestration and the eviction from his offices, which barred him from cooperating with the investigation.
- [5] The court found that the Respondent is not a fit and proper person to remain on the roll of legal practitioners by applying the three-stage inquiry. The Applicant's evidence of the complaints was not substantially challenged but was mainly admitted with an explanation of the transgressions offered. The sum of the

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<sup>1</sup> 28 of 2914.

complaints, considered together, demonstrated to this court that the Respondent is not a fit and proper person to be a legal practitioner. The court then exercised its discretion, with due reference to case law, on whether the Respondent should remain merely suspended or whether he should be removed from the roll. The seriousness of trust deficits, mismanagement, and unauthorised practises justifies striking the Respondent's name off the roll.

[6] The main thrust of the argument for leave to appeal lies in the objection of having the Respondent's name removed from the roll and not merely suspended or placed on the roll of non-practising attorneys. During argument, counsel for the Respondent argued that with regard to many of the allegations, the Respondent did not have a proper chance to explain what transpired and that there was a dispute of fact, especially regarding some aspects of the fidelity fund that needed to be ventilated in court.

[7] This argument cannot hold. The Respondent filed a detailed answering affidavit responding to every allegation made. He was afforded an extensive hearing in this court and was represented by legal counsel in the process. His answers were weighed up with the evidence and argument of the Applicants and considered in detail.

[8] There are clear requirements in the Act that a legal practitioner must comply with when closing their practice, and this did not happen. The right to practise is qualified, and people must comply with the Act when practising. This includes having a fidelity fund certificate. Practising without such a certificate is a severe transgression on its own. Many legal practitioners have been struck from the roll for this transgression alone, let alone an added 13 other transgressions.

[9] The requirement in s 17(1) of the Superior Courts Act 10 of 2013 states that leave to appeal may only be granted where the judges believe that the appeal would have reasonable prospects of success. There is no reasonable prospect of success.

[1] **Order**

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

1. The application for leave to appeal is dismissed, with costs.

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**WJ DU PLESSIS**

Acting Judge of the High Court

Gauteng Division, Pretoria

I agree

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**D MAKHOBA**

Judge of the High Court

Gauteng Division, Pretoria

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 Applicant:

Mr N Riley

Instructed by:

Thipa attorneys

Counsel for the respondent:

Ms Moolman

Instructed by:

South Africa Legal Practice Council

Date of the hearing:

29 August 2023

Date of judgment:

01 September 2023