REPUBLIC OF SOUTH AFRICA

IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

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

_____ _____
DATE SIGNATURE

Case Number: 64850/2020

In the matter between:

LOMBARDY DEVELOPMENT (PTY) LTD Applicant

And

CITY OF TSHWANE METROPOLITAN MUNICIPALITY First Respondent

MUNICIPAL MANAGER OF THE TSHWANE METROPOLITAN MUNICIPALITY Second Respondent

CITY OF TSHWANE VALUATION APPEAL BOARD Third Respondent

HENDRIK JOHANNES VILJOEN Fourth Respondent

FREDERIK COENRAAD DE BEER Fifth Respondent

MAMOKGETHI MAMMOLE MOKGWETSI Sixth Respondent

LIEZL KLEYNHANS Seventh Respondent

SHANA FRANK DA CUNHA Eighth Respondent

PIETER JOHANNES SPAUMER Ninth Respondent

KAITECH (PTY) LTD Tenth Respondent

WILLIAMS PROPERTY INVESTMENT (PTY) LTD Eleventh Respondent

CJ VAN DER LINDE EN VENTER PROJECTS (PTY) LTD Twelfth Respondent

ELIZABETH COMBRINK Thirteen Respondent

NOMLAMLI VERONICA MAHANJANA Fourteenth Respondent

JOHANNES NICOLAAS DE VOS Fifteenth Respondent

JAMES SLABBERT Sixteenth Respondent

LISHA HARILAL Seventeenth Respondent

BUSISIWE LETTIE NKOSI Eighteenth Respondent

KETSO OBED TSEKELI Ninetieth Respondent

RICHARD MAFUNISE Twentieth Respondent

MICHAEL JOHAN LEDWITH Twenty-first Respondent

KHANYISA ANTHONY MBABELE Twenty-second Respondent

MANQOBA FREDERICK AYANDA SALIMANE Twenty-third Respondent

BOITSHOKO RAKUBU NTSHABELE Twenty-fourth Respondent

MANTI ANGELA MATEKANE Twenty- fifth Respondent

KGAUGELO ROMEO SHADUNG Twenty-sixth Respondent

MASHUNDU GANGAZHE Twenty-seventh Respondent

LISPA RONELLA KANIA Twenty-eighth Respondent

MTHUNDHOLOVHANI FAMILY TRUST Twenty-ninth Respondent

AMATIMA FAMILY TRUST Thirtieth Respondent

WYNAND JACOBUS LE ROUX Thirty-first Respondent

HEILA ELIZABETH GELDENHUYS Thirty-second Respondent

Delivered. This judgment was handed down electronically by circulation to the parties' representatives by email. The date and time for hand down is deemed to be 10h00 on 4 March 2024.

JUDGMENT

RANCHOD J

Introduction

[1] This is a review application which concerns a decision by the City of Tshwane Metropolitan Municipality (the City) to implement a so-called 'Extraordinary Valuation Roll' (the EVR) which purported to retrospectively re-categorise seventy-eight properties (the properties) owned by the applicant for rates purposes. The application is in terms of the Promotion of Administrative Justice Act, 2000 (PAJA), alternatively, the principle of legality. Where I refer to the first, second and third respondents jointly they will be referred to as 'the respondents' as none of the other respondents are opposing the application.

[2] The applicant says the Fourth to Thirty-second respondents, who became owners of properties appearing in the EVR as owned by the applicant during the period of the EVR (i.e., 1 July 2013 to 30 June 2017) are necessary respondents to this application. No relief is sought against these respondents, save for seeking costs against any of them who elect to oppose the application. They are cited due to their direct and substantial interest in the outcome of the review application.

[3] The City adopted and retrospectively imposed the EVR in response to decisions of Tuchten J (the Tuchten judgment) and the Supreme Court of Appeal (the SCA) judgment, which confirmed the Tuchten judgment on appeal (save for paragraphs 5 and 6 of the order which were set aside. The Tuchten judgment set aside previous valuation rolls in terms of which the City had purported to retrospectively re-categorise the applicant's properties for purposes of levying rates. The City says it complied with the Tuchten and SCA judgments by re-categorising the properties for a second time. This it did by adopting the EVR and implementing it retrospectively.

[4] The applicant, however, contends that the Local Government: Municipal Property Rates Act 6 of 2004 (the Rates Act) makes no provision for an EVR and further, that the Tuchten and SCA judgments have expressly held that the City may not impose rates retrospectively. Hence the application to review and set aside the City's adoption of the EVR; the decision of the Municipal Valuer to dismiss the applicant's objections to the EVR; and the VAB's decision to dismiss the applicant's appeal.

Material background facts

[5] In July 2011 the Kungwini Local Municipality together with the neighbouring Nokeng tsa Taemane Local Municipality and Metsweding District Municipality were dis-established and incorporated into the City of Tshwane.

[6] The applicant's properties are situated within the former Kungwini area. They were at all relevant times vacant stands in the Lombardy Estate situated to the east of Pretoria. Whilst under administration of Kungwini, the applicant's properties were categorized as "*residential"* despite provision having been made in its rates policy for a rateable category for vacant land. After the disestablishment of Kungwini, the City adopted a Special Valuation Roll (SVR) in 2012 which recategorized the vacant properties in the Kungwini area from residential to vacant land for the purposes of the municipal rates, in accordance with the City's rates policies. The City had determined a higher rate for vacant land in terms of the Local Government: Municipal Systems Act 32 of 2000 (the Systems Act).

[7] The recategorized properties included seventy-eight properties of the applicant. It is not in dispute that the properties of the applicant were vacant at the relevant time. The applicant consequently had to pay the higher rate. Unsurprisingly, the applicant was unhappy about this. It, together with thirteen others instituted review proceedings seeking, *inter alia*, the review and setting aside of the City's 2012 SVR.

[8] Tuchten J was seized with the matter. The learned Judge held that by adopting the 2012 SVR the City failed to comply with the notice requirements provided for in section 49 of the Rates Act and accordingly reviewed and set

aside the administrative decision of the City to recategorize the applicant's properties from residential to vacant land. The judgment was delivered on 31 May 2016. The order reads:

> "1 To the extent necessary, any lateness in bringing these review proceedings is condoned under section 9(2) of the Promotion of Administrative Justice Act, 3 of 2000 (PAJA) and the period of 180 days provided for in Section 7(1) of PAJA is concomitantly extended.
>
> 2 The respondent's 2012 supplementary valuation roll is declared invalid and set aside to the extent that it re-categorised as "Vacant" properties situated in the municipal area of the former Kungwini Local Municipality formerly categorised as "Residential" (the affected properties).
>
> 3 The respondent's 2013 general valuation roll and all subsequent valuation rolls of the respondent are declared invalid and set aside to the extent that they categorise the affected properties as "Vacant" unless and until the affected properties are lawfully recategorized as such.
>
> 4 The imposition by the respondent of the assessment rate applicable to vacant land on those of the affected properties which belonged to the applicants on 28 June 2013, the date upon which the review application was instituted, is declared invalid and set aside.
>
> 5 Item 5.1.5(d) of the respondent's rates policy with effective date 1 July 2011, as amended (pp784-799 of the record) is declared invalid and set aside.
>
> 6 The respondent is prohibited from further implementing any of the decisions mentioned above in this order to the extent that they have been set aside.
>
> 7 Pursuant to the applicants' tender made through counsel, the applicants are directed to pay rates to the respondent in respect of the affected properties owned by them at the rate applicable to such properties immediately preceding the coming into operation of the respondent's 2012 supplementary valuation roll until the rate applicable to such properties is changed according to law.
>
> 8 The decision to implement the 2013 general valuation roll is remitted to the respondent to consider afresh the appropriate categorisation of the affected properties and the rate which should be levied upon the affected properties, with

due regard to the provisions of the Municipal Property Rates Act, 6 of 2004, to other applicable legislation and to this judgment.

9 Except as expressly stated in this order, decisions taken and acts performed under and pursuant to any of the valuation rolls mentioned in this order are not invalid merely because of the invalidity of such valuation rolls themselves.

10 The respondent must pay the applicants' costs, including the costs consequent upon the employment of both senior and junior counsel."

[9] The City appealed to the SCA. Save for setting aside paragraphs 5 and 6 of the order made by Tuchten J, it dismissed the City's appeal with costs. The judgment of the SCA was handed down on 31 May 2018.

[10] The City thereafter purported to comply with the orders of Tuchten J and the SCA by adopting an Extraordinary Valuation Roll which retrospectively recategorised the affected properties as vacant land.

[11] The applicant is of the view that the City's recategorization of its properties was invalid and unlawful in that there is no provision in the Rates Act for the creation of an EVR nor is there provision for the retrospective implementation of the EVR. It therefore launched the present application in which it seeks to review and set aside:

11.1 the adoption of an EVR alternatively, to declare the EVR invalid and unlawful to the extent that it retrospectively recategorized properties owned, or previously owed by the applicant (the review application);

11.2 the decision of the City's Valuer (the Valuer) to reject the applicant's seventy-eight objections; and

11.3 the decision of the Valuation Appeal Board (VAB) to dismiss the applicant's appeals against the decision of the Valuer.

[12] There are two related interlocutory applications for determination:

12.1 A belated application by the City to strike out certain portions of the applicant's replying affidavit in the main application (the strike out application).

12.2 A conditional application by the applicant for an extension, in terms of section 9(1) of the Promotion of Administrative Justice Act 3 of 2000 (the PAJA), of the 180 days time period provided for in section 7(1) of the PAJA, alternatively, condonation for any failure to institute the review proceedings within a reasonable time, and for exemption, in terms of section 7(2)(c) of PAJA, from the duty to exhaust any internal remedies (the extension and exemption application).

Points *in limine*

[13] The respondents raised four points *in limine*. It would be apposite to deal with them before I turn to the interlocutory and review applications.

The first point *in limine: lis alibi pendens*

[14] The City contends that the review application ought to be stayed on the grounds of *lis alibi pendens*. The contention is based on the fact that the applicant had launched an application to hold the City in contempt (the contempt proceedings) for failing to comply with the order of Tuchten J (as confirmed by the SCA save for paragraphs 5 and 6 which were set aside) and that application was still pending.

[15] The requirements for a plea of *lis alibi pendens* are well-established. There must be: (a) proceedings between the parties; (b) on the same cause of action; and (c) for the same relief.

[16] The City submitted that the present proceedings *"in essence"* are based on *"the same subject matter"* as the contempt proceedings. I do not agree. The cause of action in the contempt proceedings was the City's failure to comply with the order granted by Tuchten J. However, the cause of action in the present proceedings is the City's adoption of the EVR which the applicant alleges is unlawful and therefore must be reviewed and set aside. They are two distinct applications.

The second point *in limine*: the EVR is immune from review

[17] The City contends that the EVR is immune from review or judicial challenge because the Tuchten and SCA judgments required the adoption of the EVR. It therefore constituted a *"court ordered valuation roll"* which is *"immune to*

being challenged on review unless these judgments are rescinded or repealed." As will become apparent later in this judgment, the Tuchten and SCA judgments did not contemplate the adoption of an EVR, let alone retrospectively, hence this point *in limine* falls to be dismissed.

The third point *in limine*: delay

[18] The City's third point *in limine* (which is conditional upon its second one failing)is that the applicant unduly delayed the institution of these proceedings. It says the EVR became effective on 10 December 2018. The applicant launched the review application only two years later whereas section 7(1)(a) of the PAJA requires an applicant to institute proceedings without unreasonable delay and not later than 180 days of the conclusion of any internal remedies available to it.

[19] On 7 November 2018 the City gave notice of the EVR. The applicant lodged seventy-eight objections on 7 December 2018 (for the seventy-eight properties it had) against the City's decision to impose rates based on its re-categorisation of the applicant's properties from 'residential' to 'vacant land'. On 29 April 2019, the Municipal Valuer rejected the objections. The applicant appealed to the Valuation Appeal Board (the VAB) on 23 May 2019. The VAB heard the appeal more than a year later, on 26 June 2020, and gave its decision dismissing the appeal on 28 July 2020. The applicant issued the present application on 9 December 2020.

[20] The City admits this timeline in its answering affidavit. The timeline shows that the applicant launched these proceedings within 180 days of the VAB's decision. However, the City contends that the applicant erred in lodging its objections and appeals to the Municipal Manager and thereafter to the VAB in terms of sections 51 and 54 of the Rates Act. The consequence of this, according to the City, is that the objections and appeals pursued by the applicant should be disregarded in considering whether the applicant delayed in instituting these proceedings. If they are disregarded then the applicant was well outside the 180 day time limit provided for in the PAJA. However this submission overlooks the fact that the City was complicit in the applicant's decision to lodge the objections and the appeal in terms of sections 51 and 54, respectively, of the Rates Act. The City acquiesced in the applicant's attempts to challenge the EVR by objections and appeal.[1] It represented to the applicant that the VAB should decide the appeals.[2] The VAB delayed the making of a decision. In response to an application to compel the VAB to determine the appeals, the City agreed to a draft order stating that the VAB "*shall decide the Applicant's appeals*".[3] And it did so well knowing the grounds on which the appeal was based.[4] The first time the City took the point that the challenge against the EVR was not justifiable, was in the heads of argument it filed in respect of the appeal in June 2020.[5] In my view the City is therefore precluded from now taking issue with the applicant's decision to challenge the EVR on the basis that it did.

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[1] Replying affidavit, paras 50.1 and 50.4, Caselines 5 – 24.
[2] Replying affidavit, para 50.4, Caselines 5 – 24.
[3] Replying affidavit, para 50.5 and annexures "RA3" and "RA4", Caselines 5 – 24.
[4] Replying affidavit, para 50.5 and annxures "RA3" and "RA4", Caselines 5 – 24.
[5] Replying affidavit, para 50.6, Caselines 5 – 25.

[21] The City also argued that it was not permissible for the applicant to invoke the objection and appeal processes that it did, because section 50(2) of the Rates Act provides that objections must be in relation to specific individual properties and not against the valuation roll as such.[6] But the applicant in fact did submit seventy-eight objections – one each for the individual properties.

[22] The point *in limine* falls to be dismissed.

The fourth point *in limine:* failure to exhaust internal remedies

[23] The City's fourth point *in limine* is that the applicant failed to exhaust its internal remedies by not utilising an internal appeal process in terms of section 62(1) of the Systems Act. I have already alluded to the fact that the City was complicit in the applicant's decision to lodge the objections and the appeal in terms of sections 51 and 54, respectively, of the Rates Act. In any event the reliance on section 62(1) of the Systems Act is in my view misplaced.

[24] Section 62(1) provides for a right of appeal against "a decision taken by a political structure, political office bearer, councilor or staff member of a municipality in terms of a power or duty delegated or sub-delegated by a delegation authority to the political structure, political office bearer, councilor or staff member. A "*delegating authority*" is defined in section 1 of the Systems Act as being either the municipal council or a political structure, political office bearer,

[6] Answering affidavit, para 7.16, Caselines 4 – 33.

councilor, or staff member of the municipality, depending on the nature of the delegation. But the City does not suggest that the decision to adopt the EVR was taken "*in terms of a power or duty delegated or sub-delegated by a delegating authority."* Nor could it, because on its own version, the decision to adopt the EVR was not taken in terms of a power ordinarily vested in a municipality but rather in terms of the power (*"vires")* conferred upon it in terms of the Tuchten and SCA judgments.

[25] The applicant's submission, which is conceded by the City, is that the Rates Act makes no provision for an EVR. Since the power in terms of which the decision to adopt the EVR was purportedly taken is not one provided for in statute, it cannot have been one subject to delegation in terms of section 59 and, hence, subject to appeal in terms of section 62(1) of the Systems Act. It follows that the applicant had no right of appeal in terms of section 62(1). Either it was required to object and appeal in terms of sections 51 and 54 of the Rates Act, as it did, or it was required to do nothing at all. Either way, the applicant did not fail to exhaust its internal remedies.

[26] In the circumstances, the fourth point *in limine* also falls to be dismissed.

The extension and exemption application

[27] The applicant launched the application for an extension and exemption because the City raised delay and failure to exhaust internal remedies as points

in limine. I have determined that the points *in limine* fall to be dismissed. There is therefore no need to determine the application for extension and exemption. However, the applicant seeks costs on the attorney and client scale against the first to third respondents. There was no need for the City to have put the applicant to the cost of bringing the application. A punitive costs order would be justified in the circumstances.

The striking out application

[28] The City launched a striking out application after the applicant filed its replying affidavit in the main application on the basis that certain paragraphs therein constituted new matter, which should have been contained in the founding affidavit. It was contended that the City will not be able to file a further affidavit in response without the leave of the court. It is not clear why it chose not to apply for leave to file a further affidavit. The applicant opposes the striking out application on the grounds that it is moot or without merit.

[29] The allegedly offending paragraphs are paragraphs 45, 47 to 57 and paragraphs 58 to 60 of the replying affidavit. However, the impugned paragraphs are a comprehensive response to the points *in limine* raised by the City in its answering affidavit in the main application. In the circumstances it could hardly be contended that it was new matter.

[30] In view of the findings I have made regarding the points *in limine,* the application to strike out must fail.

The main (review) application

[31] I turn then to the main application, a synopsis of which has been set out at the beginning of this judgment.

[32] As I said, the applicant raised several grounds for reviewing and setting aside the decision of the City to impose what it termed an 'Extraordinary Valuation Roll' (the EVR). I deal with them in turn.

That the EVR is *ultra vires* and is impermissibly of retrospective effect

[33] The applicant's contention is that the EVR is neither contemplated in, nor authorised by the Rates Act. It is therefore *ultra vires* the City's powers and unlawful.

[34] The City does not dispute that there is no legislative basis for the adoption of the EVR. It adopted the EVR based on its own interpretation of the Tuchten and SCA judgments. The City referred to paragraph 30 of the SCA judgment where it explained how order 8 of the Tuchten judgment should be interpreted. The SCA stated:

> "30 As to paragraph 8 of the order: understood contextually, the order requires the City to undertake a valid process of re-categorization of the Kungwini vacant properties, thereby complying with the MPRA [the Rates

> Act]. Put another way, if the City wishes to apply its vacant land rate to those properties it must first properly recategorise them as vacant. This does not require the retrospective compiling of a Valuation Roll. (My emphasis.) Rather it is for the City to issue, following the procedures prescribed in the MPRA a General or Supplementary Valuation Roll that validly re-categorises the Kungwini properties as vacant. Once it has done that it would be free to apply the vacant land rate to those properties. The respondents did not challenge the validity of the rate applicable to vacant land and it is plain that the High Court does not mean by its order that the City must reconsider this rate or that the rate has been declared invalid."

[35] Tuchten J having remitted the decision to implement the 2013 GVR, insofar as the categorization of the affected properties are concerned, the City considered the process "*afresh*". It states that it complied with the order by issuing, in compliance with the prescribed procedure in the Rates Act, other applicable legislation and the Tuchten judgment the EVR in which the affected properties were re-categorised as vacant.[7] The EVR accordingly corrected the categorization of the affected properties based on the *de facto* condition of the properties on 1 July 2013.

[36] Insofar as retrospectivity is concerned the City's stance is that the Tuchten and SCA judgments contemplated a "*sui generis process*" which resulted in a "*court ordered Valuation Roll in respect of the affected properties for the period 1 July 2013 to 30 June 2017*". This, it says, did not result in a retrospective compilation of a valuation roll but, instead, resulted in the 2013 GVR being replaced with a valuation roll as provided for in the Tuchten and SCA judgments.

[7] The City's answering affidavit in the main application at para 4.23.

It says the "effect" of the Tuchten and SCA judgments *"is to have clothed the Municipality with the necessary vires to have adopted and published the EVR."*[8]

[37] The applicant contends that the City's interpretation of the Tuchten judgment is incorrect. The judgment requires compliance with the Rates Act and other applicable legislation. Insofar as the City defended its decision to impose the increased rate retrospectively, the learned Judge held at paragraph 54 of the judgment:

> "I therefore hold that the City has no power to impose rates retrospectively."

[38] In my view, it is clear that once the SCA held that a "retrospective compiling of a valuation roll" was not required. The City's submissions to the contrary fall to be rejected. It follows that the EVR is *ultra vires* in that there is no provision for it in the Rates Act. It is also invalid insofar as it is purported to be of retrospective effect.

<u>That the City failed to comply with procedural requirements</u>

[39] The City claims to have "substantially" complied with the procedural requirements of section 49 of the Rates Act.[9] However, it failed to comply in four respects. Firstly, the prescribed notice did not contain all the prescribed

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[8] Answering affidavit para 6.12.

[9] When adopting a valuation roll, section 49 of the Rates Act requires the City to –

(a) Publish notice of a valuation roll in the Provincial Gazette, which must set out the inspection period for the notice;
(b) Disseminate the substance of the notice in the manner prescribed in Chapter 4 of the Municipal Systems Act;
(c) Serve "on every owner of property listed in the valuation roll" a copy of the notice together with an extract of the valuation roll pertaining to that owner's property; and
(d) Publish the notice and the valuation roll on its official website.

information. Secondly, the notice was not delivered in time. Thirdly, the City did not serve the notice on every owner. Fourthly, it failed to provide any evidence that it published the EVR on its website as required.

That the EVR was adopted for an ulterior purpose

[40] The applicant avers that the City's main purpose for creating an EVR and implementing it retrospectively was to avoid having to potentially refund or credit the applicant with millions of Rands it had raised by the application of the EVR. Counsel for the City conceded as much in their heads of argument where it is argued that if the EVR is set aside the City would have to reverse the amounts levied against the properties. It was also argued that the City's (then) current budget did not make provision for a situation where millions would have to be repaid and that 'it would place a tremendous burden on an already financially strained City.' This submission overlooks the converse situation that if an unlawful and invalid EVR were allowed to stand then it is the applicant who would be highly prejudiced financially by having paid rates that it was not obliged legally to pay. The submissions of Counsel for the City in this regard can therefore not be sustained. There is merit in the applicant's contention that the EVR was adopted for an ulterior purpose.

[41] In all the circumstances the EVR falls to be reviewed and set aside.

[42] I make the following order:

1. The points *in limine* are dismissed with costs including the costs of two counsel.
2. The application to strike out is dismissed with costs including the costs of two counsel.
3. The applicant is awarded the costs of the application for extension and exemption on the attorney and client scale including the costs of two counsel.
4. The decision of the first respondent to impose an extraordinary valuation roll in respect of the period 1 July 2013 to 30 June 2017 (“the EVR”) is reviewed and set aside to the extent that it applies to properties owned, or previously owned, by the applicant (“the Properties”).
5. The EVR is reviewed and set aside to the extent that it applies to the Properties.
6. It is declared that, for the period 1 July 2013 to 30 June 2017 (“the EVR period”), the applicant shall pay rates in respect of the Properties at the residential tariff.
7. It is declared that the applicant shall only be liable for rates in respect of the Properties for the periods in respect of which it owned the Properties.
8. The first respondent is directed to give effect to paragraphs 6 and 7 above by taking the following steps in respect of the Properties within 90 (ninety) days of this order:

8.1 Retrospectively reversing all invalid rates (i.e. vacant property rates) levied against the Properties for the EVR period and charging the Properties residential property rates for the period ("the adjustments"). When making the adjustments the first respondent must also recalculate the interest charged against the Properties, taking into account both the reversal of the vacant property rates and all amounts paid in respect of each of the Properties during the EVR period.

8.2 Where the adjustments result in the total rates amount paid in respect of any of the Properties exceeding the total amount actually payable for the EVR period:

8.2.1 reimbursing the excess amounts, together with interest thereon at the prescribed lending rate, to the applicant to the extent the applicant was responsible for making payment of the excess amounts and has subsequently sold the Properties concerned; or

8.2.2 crediting the excess amounts, together with interest thereon at the prescribed lending rate, to the rates accounts of the Properties concerned to the extent the applicant was responsible for making payment of the excess amounts and has not subsequently sold the Properties concerned, subject thereto that any credit balances remaining upon the sale of the Properties concerned will be reimbursed to the applicant.

8.3 Where the adjustments do not result in the total amount paid in respect of any of the Properties exceeding the total amount actually

payable for the EVR period, reducing the amount owing as a reduced debit balance on the rates account of the Properties concerned.

8.4 Once having affected the adjustments, furnishing the applicant with a written account in terms of section 27(1) of the Local Government: Municipal Property Rates Act 6 of 2004, which written account must specify the credit or debit balance for rates payable; the date on or before which any debit balance is payable; how the credit or debit balance was calculated; the market value of the property; and any other relevant information required to understand the basis upon which the credit or debit balance was calculated.

9. The decision of the second respondent (City of Tshwane Municipal Valuer) to dismiss the applicant's objections to the EVR is reviewed and set aside.
10. The third respondent's decision to dismiss the applicant's objections to the EVR is reviewed and set aside.
11. The first, second and third respondents, together with any other respondents who oppose this application, are directed to pay the costs of the application, including the costs of two counsel.

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RANCHOD J

Judge of the High Court
Gauteng Division, Pretoria

Date of hearing:	**12 November 2023**
Date of judgment:	**4 March 2024**

Appearances:

For Applicant:	Adv N Ferreira & Adv A Molver Instructed by Adams and Adams Attorneys 4 Daventry Road Lynnwood Bridge Office Park Lynwood Manor, Pretoria
For Respondents:	Adv T Strydom SC & Adv L Kotze Mothle Jooma Sabdia Inc Ground Floor, Duncan Manor Cnr Duncan and Brooks Street Brooklyn, Pretoria