



**IN THE HIGH COURT OF SOUTH AFRICA, NORTHERN CAPE DIVISION, KIMBERLEY**

Not Reportable

Case No: 1952/2019

In the matter between:

**CAPE TOWN COMMUNITY HOUSING  
COMPANY (PTY) LTD**

**APPLICANT**

AND

**TEZIAMIN (PTY) LTD t/a KALAHARI PROPERTIES**

**RESPONDENT**

**Neutral citation:** *Cape Town Community Housing Company (Pty) Ltd v Teziamin(Pty) Ltd t/a Kalahari Properties (Case no 1952/2019) (29 September 2023)*

**Date heard:** 05 July 2021

**Date delivered:** 01 December 2023

**Judgment**

Eillert AJ

[1] In this matter the Applicant seeks leave to appeal to the Full Bench of this Division against the orders granted by this Court on 19 February 2021 and 5 March 2021 respectively. On 19 February 2021 this Court dismissed an

application by the Applicant for my recusal from the matter, and on 5 March 2021 an order was granted that the Applicant be finally wound-up and that the costs would be costs in the winding-up.

- [2] Section 17(1)(a) of the Superior Courts Act 10 of 2013 stipulates that leave to appeal may only be given where the judge concerned is of the opinion that the appeal would have a reasonable prospect of success or where there is some other compelling reason why the appeal should be heard.
- [3] It was held in **MEC for Health, Eastern Cape v Mkhitha and Another**<sup>1</sup> that leave to appeal ought not to be granted unless there truly is a reasonable prospect of success. An applicant for leave to appeal must convince the court on proper grounds that there is a reasonable prospect or realistic chance of success on appeal. A mere possibility of success, an arguable case or one that is not hopeless is not enough. There must be a sound, rational basis to conclude that there is a reasonable prospect of success on appeal.
- [4] Having carefully considered the submissions by both Counsel on behalf of the parties and the cited authorities, I am of the opinion that there is no reasonable prospect of success on appeal or compelling reason why the appeal should be heard.<sup>2</sup>

## **ORDER**

- [5] In the premise the following order is made:

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<sup>1</sup> [2016] ZASCA 176 (25 November 2016) at paras 16 - 17

<sup>2</sup>Due to the circumstances beyond my control, it was not possible to finalise this judgment without delay. I sincerely regret the delay.

1. The application for leave to appeal is dismissed;
2. The costs of the application shall be costs in the winding-up.

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Eillert AJ

Obo Applicant:

Adv. Du Toit

Oio:

Engelsman Magabane Inc.

Instructed by CJ Willemse, Muller & Babinszky

Obo Respondent:

Adv. Mokale

Oio:

Duncan & Rothman Inc.

Instructed by Cliffe Dekker Hofmeyr Inc.