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

CASE NO: 40436/2017

(1)	<u>REPORTABLE: NO</u>
(2)	<u>OF INTEREST TO OTHER JUDGES: NO</u>
(3)	<u>REVISED.</u>
..... DATE SIGNATURE	

In the matter between:

KEVIN KRISHEN PAUL SARABJIET
(Identity Number: [...])

Applicant

and

MOSES LESIBA SATHEGE

First Respondent

**CITY OF JOHANNESBURG
METROPOLITAN MUNICIPALITY**

Second Respondent

J U D G M E N T

MODIBA, J:

[1] The applicant seeks an order evicting Sathege from the leased premises. The application is opposed by Sathege who raises two grounds of opposition, namely, that no lease agreement was ever concluded between the parties and that the applicant has sold the premises.

[2] The applicant's ownership of the premises is proven by a Deeds Office print out attached to the founding affidavit and the title deed attached to the replying affidavit. It is trite that this document is admissible documentary proof of ownership of immovable property.

[3] Sathege's disputation of the lease agreement is a red herring. He does not set out the lawful basis for occupying the property. He had offered to vacate the property in August 2017 but failed to do so. His disputation of the applicant's title also lacks merit. He has been in occupation of the property for more than 1 year without paying rent. He clearly lacks a meritorious defence. His failure to appear in court to argue the matter after filing opposing papers is probably further indicative of his lack of a valid defence. There is no reason why the applicant should be out of pocket under these circumstances. This justifies costs on an attorney and client scale as claimed by the applicant.

[4] His submission that he lacks money to pay for alternative accommodation is unsubstantiated. This court makes nothing out of it. The applicant has sold premises to another buyer to whom he has to give vacant occupation of the property. Sathege's continued occupation of the property is clearly prejudicial to him and to the buyer of the property.

[5] The applicant having complied with all the requirements of the Prevention of Illegal Eviction and Unlawful Occupation of Land Act 19 of 1998, in the circumstances, I find that granting an order is just and equitable. Given that Sathege had agreed to vacate the property in August 2017, a shorter

notice period is justified in these circumstances. However counsel for the applicant submitted from the bar that she holds instructions to agree to the vacation date of 15 April 2018.

[6] I therefore make the following order:

ORDER

1. The first respondent, and all those who occupy the property through him, described as Erf [...], Turf Club Township, Province known as Province of Gauteng known as [...] U. Street, Turffontein (*“the premises”*) are ordered to vacate the premises by 15 April 2018.
2. In the event that the first respondent and/or any person occupying the premises through him fail to vacate the property within 14 days of the order being served on them, that the Sheriff or his lawfully appointed deputy for the area within which the property is situated is authorized to evict the first respondent and all such other persons on the property on 16 April 2018.
3. The first respondent shall pay the costs of the application on the attorney and client scale.

MADAM JUSTICE L T MODIBA

**JUDGE OF THE HIGH COURT
GAUTENG LOCAL DIVISION, JOHANNESBURG**

APPEARANCES

Counsel for applicant:	Ms. C Humphries
Instructed by:	Miranda & Associates Inc
For the first respondent:	The first respondent, who would have appeared in person, failed to appear.
Date of hearing:	13 March 2018
Date of judgment:	13 March 2018