

DELETED

(1) REPO. ☒ NO.

(2) OF INTEREST TO OTHER JUDGES: YES/NO.

(3) REVISED.

14/04/2010

DATE





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IN THE HIGH COURT OF SOUTH AFRICA
(NORTH GAUTENG DIVISION)

CASE NO.: 20083/06

In the matter between

**HIGHVELD STEEL AND VANADIUM
CORPORATION LTD.**

15/4/2010
Applicant

and

**RUSSIL VAN DER HAER AGENCIES (PTY)
LTD. TRADING AS DAMELIN COLLEGE**

Respondent

CORAM: EBERSOHN AJ

JUDGMENT HANDED DOWN ON 14 APRIL 2010

JUDGMENT: APPLICATION FOR LEAVE TO APPEAL

EBERSOHN AJ.

[1] In this judgment the parties will be referred to as in convention.

[2] After hearing evidence and argument the Court granted judgment in favour of the plaintiff with costs.

[3] The defendant filed a notice of application for leave to appeal. In the notice three proposed grounds were stated.

[4] **AD FIRST GROUND:**

The defendant repeats the same points raised in argument regarding the Alienation of Land Act, after evidence was heard and this aspect was fully dealt with in the written judgment and it is not necessary to deal with it again.

[5] **AD SECOND GROUND:**

In this ground it is the contention of the defendant that the premises were not properly identified and that the right of first refusal was a pactum de contrahendo which was unenforceable. The premises were properly identified and the defendant apparently lost sight of the contract of sale with Alibirops, annexure "F" to the particulars of claim which was uncontroverted. The said agreement puts paid to any argument that the premises were not identifiable and not identified. The plaintiff did not sue for transfer but sued for damages, a fact the defendant didn't grasp.

[6] **AD THIRD GROUND:**

It is the contention of the defendant that the plaintiff did not succeed in proving its damages. This aspect was fully dealt with in the written judgment and summed up in paragraph [44] thereof.

[7] There are no prospects of success with the proposed appeal and the Court accordingly makes the following order:

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



P.Z. EBERSOHN

ACTING JUDGE OF THE HIGH COURT

Applicant's counsel

Applicant's attorneys

Adv. A.E. BHAM SC

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