

THE REPUBLIC OF SOUTH AFRICA

**IN THE HIGH COURT OF SOUTH AFRICA
[WESTERN CAPE DIVISION, CAPE TOWN]**

**REPORTABLE
CASE NO: A212/2022**

Before ALLIE, J et SALIE, J et MANGCU-LOCKWOOD, J

Hearing: 17 July 2023; 1 February 2024

Reasons for Rule 42(1) Order: 19 February 2024

In the matter between:

THE BODY CORPORATE OF MERRIMAN COURT	1 st Appellant
CLAIRE ELIZABETH BLAHA	2 nd Appellant
CHARLES ERIC LEONG SON	3 rd Appellant
WENDY-LEE DE GOEDE	4 th Appellant
ISTVAN GYONGY	5 th Appellant

And

JOHANNES WESSEL GREEFF	Respondent
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**REASONS FOR RULE 42(1) ORDER ELECTRONICALLY
DELIVERED ON 19 FEBRUARY 2024**

ALLIE, J:

1. In this Full Bench Appeal, counsel for the Appellants in the penultimate paragraph of his Heads of Argument sought the setting aside of the orders of the court *a quo* and the dismissal of the application before the court *a quo* with costs.
2. Clearly, no order concerning the costs of the appeal were made.
3. In light of the Appellants having been successful and it having been upheld, I am of the view that the costs of the appeal ought to follow the result.
4. Therefore, in terms of Rule 42(1) (b) of the Uniform Rules of this Court, I am of the view that the order in the judgment delivered on 13 February 2024, ought to be varied as follows in order to make clear our decision concerning the costs of the appeal.
5. By adding in paragraph 4 of the order which reads as follows:

“4. The respondent shall bear the costs of the appeal.”

IT IS ORDERED THAT:

“4. The respondent shall bear the costs of the appeal.”

Therefore the new order of the judgment that was given on 13 February 2024 reads as follows:

1. The appeal is upheld;
2. The orders of the court *a quo* dated 15 September 2021 and 16 March 2022 are set aside; and
3. The respondent's application is dismissed with costs.
4. The respondent shall bear the costs of the appeal."

JUDGE R. ALLIE

SALIE, J:

I agree.

JUDGE G. SALIE

MANGCU-LOCKWOOD, J:

I agree.

JUDGE N. MANGCU-LOCKWOOD

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In the matter between:

THE BODY CORPORATE OF MERRIMAN COURT

1st Appellant

CLAIRE ELIZABETH BLAHA

2nd Appellant

CHARLES ERIC LEONG SON

3rd Appellant

WENDY-LEE DE GOEDE

4th Appellant

ISTVAN GYONGY

5th Appellant

and

JOHANNES WESSEL GREEFF

Respondent

For the Appellant : Adv PA Corbett SC

Instructed by : Van Rensburg & Co (Ref: Leon van Rensburg)

For Respondent : Adv Adv RG Patrick

Instructed by : Maurice Phillips Wisenberg (Ref: Hein Lombaard)

Date(s) of Hearing : 17 July 2023; 1 February 2024

Judgment delivered on : 19 February 2024