



**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA**

Case number:23481/2020

- (1) REPORTABLE: NO
(2) OF INTEREST TO OTHERS JUDGES: NO
(3) REVISED



SIGNATURE

27 May 2022

DATE

In the matter between:

ALL HEARTS FOUNDATION NPO

First Applicant

ALEXANDRA CHRISTINE LENNON

Second Applicant

RONNIE KIM AUSTEN

Third Applicant

And

GRETA ALGONDA BETSY CARLA ROON

Respondent

In re:

GRETA ALGONDA BETSY CARLA ROON

Applicant

And

ALL HEARTS FOUNDATION NPO

First Respondent

ALEXANDRA CHRISTINE LENNON

Second Respondent

RONNIE KIM AUSTEN

Third Respondent

UNLAWFUL OCCUPIERS

Fourth Respondent

MADIBENG LOCAL MUNICIPALITY

Fifth Respondent

JUDGMENT: APPLICATION FOR LEAVE TO APPEAL

1. The applicants in this matter have brought an application for leave to appeal against the judgment of this Court, handed down on 27 October 2021. The order of the judgment reads as follows.

- “1. The lease agreement between the applicant and first respondent was lawfully cancelled by the applicant.
2. The first respondent is ordered to vacate the property, Plot 97, De Rust, Hartbeespoortdam, North-West on or before 30 April 2022.
3. The second and third respondents are herewith ordered to vacate the property, Plot 97, De Rust, Hartbeespoortdam, North-West on or before 30 April 2022.
4. It is further ordered that in the event that the first and/or the second and third respondents do not vacate the property on or before 30 April 2022, the sheriff alternatively his duly appointed deputy together with such assistance as he deems appropriate is authorised and directed to evict the first, second and fourth respondents from the property.

5. The first, second and third respondents are ordered to pay the costs of this application including the costs of the application in terms of s 4(2) of the PIE Act.

2. The application for leave to appeal was only filed on 22 March 2022 and the applicants also served a condonation application for their late filing of the application for leave to appeal. The condonation application was filed on 4 April 2022.

3. The respondent opposed the application for leave to appeal and filed a notice in terms of Uniform Rule of Court 6(5)(d)(iii) in respect of the applicants' condonation application.

4. The parties argued the condonation application and leave to appeal simultaneously, since prospects of success of the appeal plays a cardinal role in the granting of condonation.

5. Section 17 of the Superior Courts Act, Act 10 of 2013, imposes substantive law provisions applicable to applications for leave to appeal. The most important principles are as follows. It is stipulated that leave to appeal "may only be given" if the judge is of the opinion that the appeal would have reasonable prospects of success or some other compelling reason why the appeal should be heard, exists.

6. I considered all arguments raised by the applicants and on due consideration of the circumstances of this matter, and despite any sympathy I may have for the animals in the care of the first applicant, I am not of opinion that the appeal would have reasonable prospects of success

and in my view, no other compelling reasons exists why the appeal should be heard.

7. I dealt with all aspects of the matter in my judgment *a quo* and regard my reasoning as sufficient.

8. In view of the above, both the applicants' application for condonation for the late filing of the appeal and the application for leave to appeal are refused with costs.



**ACTING JUDGE JF BARNARDT
JUDGE OF THE HIGH
COURT**

GAUTENG DIVISION OF THE HIGH COURT, PRETORIA

Delivered: This judgment was prepared and authored by the Judge whose name is reflected and is handed down electronically by circulation to the Parties/their legal representatives by email and by uploading it to the electronic file of this matter on CaseLines. The date for hand-down is deemed to be 27May 2022.

APPEARANCES

For the applicants: Adv. McTurk
Instructed by: Schindlers Inc
Tel: 011 448-6000

For the respondent: Adv. Labuschagne
Instructed by: EW Serfonteing & Associates Inc.
Tel: 012 344-6535

Date heard: 25 May 2021

Date of judgment: 27 May 2021