



IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG DIVISION, PRETORIA)
REPUBLIC OF SOUTH AFRICA

Case Number: 58530/2019

DELETE WHICHEVER IS NOT APPLICABLE

(1) REPORTABLE: NO

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

(3) REVISED

DATE: 5TH OF MAY 2021

SIGNATURE:

JOHN SINDISO NGCEBETSHA

First applicant

NGCEBETSHA MADLANGA INC

Second respondent

And

THE LEGAL PRACTICE COUNCIL OF SOUTH AFRICA

Respondent

JUDGMENT

NQUMSE AJ

- [1] This is an application for leave to appeal the order of this court dated 4 August 2020 and the judgment handed down by this court on 13 October 2020.
- [2] The applicants were the respondents in the application for the first respondent's name to be struck from the roll of legal practitioners and the Legal Practice Council was the applicant. For ease of reference, the parties will be referred to herein as cited in the application.
- [3] The grounds of appeal appear fully from the respondents' application for leave to appeal and I do not find it necessary to repeat same herein.
- [3] The application is in *essence* directed at the court's factual findings in respect of the first respondent's conduct, the finding that the first respondent's conduct does not conform to the conduct expected of an attorney and thirdly, the court's finding that the first respondent's conduct justified his name being struck from the roll of attorneys.
- [4] Mr Jooste, counsel for the applicant, quite correctly pointed out that the offending conduct of the first respondent was not seriously in dispute and was borne out by the facts contained in the papers before court.

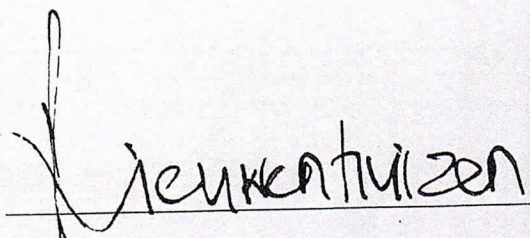
- [5] It was rather the first respondent's explanation for his conduct that formed the subject matter of the dispute. The court held that the first respondent's explanation for his conduct did not pass muster and found on a balance of probabilities that the applicant did establish the offending conduct complained of.
- [6] The grounds of appeal in respect of the court's finding in this regard, are without any merit.
- [7] In the next stage of the enquiry, this court considered the first respondent's conduct against the conduct expected of an attorney. The misappropriation of trust funds in the manner it occurred *in casu* falls far foul from the conduct expected of an attorney, whose profession should be practised with the highest degree of integrity.
- [8] It is mind-boggling that the first respondent could classify his conduct as becoming of that of an attorney. The grounds of appeal in this regard, similarly, lack any merit.
- [9] Lastly, the first respondent submitted that, especially in view of the lengthy time he has practised without any wrongdoing, this court should not have ordered his name to be struck from the roll.

- [10] The submission is untenable. What the first respondent is in actual fact conveying is that the longer an attorney practises, the lesser his conduct could be accepted to conform to the norm. The grounds of appeal against the sanction imposed by this court stands, in a similar vein, to be dismissed.

ORDER

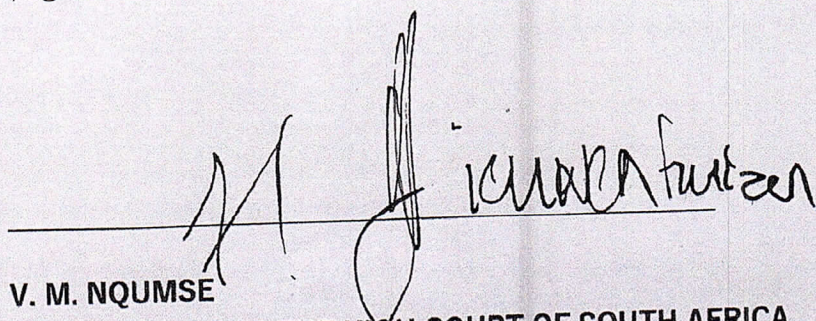
- [11] In the premises, I propose the following order:

The application is dismissed with costs on an attorney and client scale.



**N. JANSE VAN NIEUWENHUIZEN
JUDGE OF THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA**

I, agree.



**V. M. NQUMSE
ACTING JUDGE OF THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA**

DATE HEARD

19 February 2021

JUDGMENT DELIVERED

05 May 2021

APPEARANCES

Counsel for the Applicants

(Respondents in the Court a quo):

Instructed by:

Advocate M. Nxumalo

Ngcebetsa Madlanga Incorporated

On behalf of the Respondent

(Applicant in the Court a quo):

Instructed by:

Advocate C.J. Jooste

Iqbal Mahomed Attorneys