



Reportable:	YES / NO
Circulate to Judges:	YES / NO
Circulate to Magistrates:	YES / NO
Circulate to Regional Magistrates:	YES / NO

**IN THE HIGH COURT OF SOUTH AFRICA
NORTHERN CAPE DIVISION, KIMBERLEY**

Case No: 628/2020
Heard on: 21/05/2021
Delivered on: 30/07/2021

In the matter between:

THE NATIONAL DIRECTOR OF PUBLIC PROSECUTIONS Applicant
and

HENRIETTA CORNELIA MOORE	First Respondent
CHRISTOPHER LEY MOORE	Second Respondent
ROBERT JORGE MENDONCA VELOSA	Third Respondent
THE CM PROPERTY TRUST	Fourth Respondent
IPROTECT TRUSTEES (PTY) LTD	Fifth Respondent

JUDGMENT

MAMOSEBO J

- [1] The National Director of Public Prosecutions (NDPP) seeks an order for forfeiture of two properties, Erf 1434 and Erf 1435 known as number 14 and 16 Schoeman Street, Barkly West, respectively, (the Barkly West properties) in terms of s 48(1) read with s 50(1)(b) of the Prevention of

Organised Crime Act¹ (POCA).² The NDPP contends that the properties are proceeds of unlawful activities referred to in Schedule 1 of POCA, namely, money laundering.

[2] Some preliminary issues need to be dealt with first. Mr Pienaar, for the respondents, correctly, in my view, did not press on with the argument that the NDPP did not comply with s 48(3) of POCA³ in that the application for forfeiture was served on the respondents' attorneys of record as opposed to service on the respondents. The argument would not, in my view, have been fatal to the application. I am satisfied that service on the respondents' attorneys of record was proper. The second preliminary issue relates to the admissibility of hearsay evidence. Mr Pienaar argued that the entire application for preservation and forfeiture of the property is based on the affidavit made by Mr Michael Bareng Raadt to the police in the criminal trial. He argued that Raadt did not depose to any confirmatory affidavit, specifically in these proceedings. As a result, he contended, this Court must reject the statement as inadmissible hearsay evidence. In *Giesecke & Devrient Southern Africa (Pty) Ltd v Minister of Safety and Security*⁴ it was said:

¹ 121 of 1998

² Section 48 of POCA provides:

- (1) If a preservation of property order is in force the National Director, may apply to a High Court for an order forfeiting to the State all or any of the property that is subject to the preservation of property order.
- (2) The National Director shall give 14 days' notice of an application under subsection (1) to every person who entered an appearance in terms of section 39(3).
- (3) A notice under subsection (2) shall be served in the manner in which a summons whereby civil proceedings in the High Court are commenced is served.
- (4) Any person who entered an appearance in terms of section 39(3) may appear at the application under subsection (1)—
 - (a) to oppose the making of the order; or
 - (b) to apply for an order—
 - (i) excluding his or her interest in that property from the operation of the order; or
 - (ii) varying the operation of the order in respect of that property, and may adduce evidence at the hearing of the application.

³ Section 48 (3) provides: A notice under subsection (2) shall be served in the manner in which a summons whereby civil proceedings in the High Court are commenced, is served.

⁴ 2012 (2) SA 137 (SCA) at 147 para 28

“[28] ...As explained in *S v Ndhlovu* [2002 (6) SA 305 (SCA); (2002 (2) SACR 325; [2002] 3 All SA 760] para 15, the very purpose for the introduction of s 3(1)(c) was to 'supersede the excessive rigidity and inflexibility — and occasional absurdity — of the common-law position' by creating another avenue for the admission of hearsay evidence which turns on what the interests of justice require. Moreover, I find support for this understanding in the approach adopted by our courts, at least by implication if not yet explicitly, that we are dealing with alternative avenues of admissibility (see eg *Skilya Property Investments (Pty) Ltd v Lloyds of London Underwriting Syndicate Nos 960, 48, 1183 and 2183* 2002 (3) SA 765 (T) at 800E – G and 804I – J)”

[3] I am of the view that the statement by Raadt be admitted in evidence in the interest of justice. Ms Moore does not deny receiving payments from Mr Raadt and utilising those amounts to procure the Barkly West properties.

[4] The issue that stands for determination is whether the Barkly West properties should be forfeited to the State in terms of Chapter 6 of POCA, which requires a determination whether they are proceeds of unlawful activities. The preservation order was granted on 20 March 2020 unopposed.

[5] The first respondent, Ms Henrietta Cornelia Moore, was a life partner of Mr Abraham Johannes Diedericks (the deceased) who passed away testate on 25 November 2008. The couple were joint owners of a property situated at 24 Apian Way, Royldene, Kimberley (the Apian property). Of relevance in the Will are the following clauses:

“1.3 Aan my vriendin, Henrietta Cornelia Moore, die volgende:

1.3.1 My aandeel in die woonhuis geleë te Appianweg 24, Raydene, Kimberley.

1.3.2 My aandeel in die woonhuis geleë te Merlin Close 7, Camelot.

Die bemakings kragtens klousules 1.3.1 en 1.3.2 is onderhewig aan die voorwaarde dat my gemelde vriendin, 'n bemaaksom aan my boedel sal betaal gelykstaande aan die geswore waardasie van my aandeel in die gemelde woonhuise, soos bepaal vir boedelberederringsdoeleindes. Indien my gemelde vriendin nie die voorwaarde soos hierbo uiteengesit aanvaar nie, sal die

bemakings kragtens klousules 1.3.1 en 1.3.2 aan haar verval en bemaak ek die gemelde bates aan my kinders, Jacob Le Roux Diedericks (gebore 18/10/1984) en Christelle Diedericks (gebore 04/04/1979) onderhewig aan die lewenslange vruggebruik van my vriendin, Henrietta Cornelia Moore.⁵ (emphasis added)

- [6] On 23 February 2009 the Master of the High Court, Kimberley, jointly appointed Ms Moore and Sanlam Trust Limited as executors of the deceased's estate under Letters of Executorship 497/09. The office of the Master received complaints lodged against Ms Moore pertaining to the estate. She was afforded opportunity to furnish reasons to the Master why she should not be removed as executrix, but failed to do so. Consequently, on 14 April 2009 she was removed as executrix in terms of s 54(1)(b)(v) of the Administration of Estates Act 66 of 1965 as amended and Sanlam Trust Limited, represented by Ms Suzette Malherbe, remained the sole executor of the deceased's estate.
- [7] On 13 January 2014, Ms Moore offered to sell the Apian property to a certain Mr Michael Bareng Raadt for R4.7 million. After viewing the property on the same day, Raadt negotiated a reduced purchase price with her to R3.9 million and paid a deposit of R20,000.00 directly into Ms Moore's bank account. On 27 January 2014, Ms Moore and Mr Raadt concluded two agreements, a rouwkoop sale agreement "CM 16"⁶ and a

⁵ 1.3 To my friend Henrietta Cornelia Moore, the following:

1.3.1 My share in the dwelling located at 24 Apian Road, Royldene, Kimberley.

1.3.2 My share in the dwelling located at 7 Merlin Close, Camelot.

The bequests under clauses 1.3.1 and 1.3.2 **are subject to the condition that my said girlfriend will pay a bequest to my estate equal to the sworn valuation of my share in the said dwellings, as determined for estate administration purposes.** If my said friend does not accept the condition as set out above, the bequests under clauses 1.3.1 and 1.3.2 to her will lapse and I bequeath the said assets to my children, Jacob Le Roux Diedericks (born 18/10/1984) and Christelle Diedericks (born 04/04/1979) subject to lifelong usufruct in favour of my girlfriend, Henrietta Cornelia Moore.

⁶ Rouwkoop in this agreement is defined as: "A 'rouwkoop' clause in a contract of sale provides for the purchaser to pay a deposit to the seller that is not refundable should the purchaser withdraw from the contract. Most contracts of sale, that provide for the payment of a deposit by the purchaser, also contain a provision that such deposit will not be paid back in such circumstances. Such a clause can also be a penalty clause, which is applicable where the contract is cancelled as a result of the purchaser's breach.

residential property agreement “CM 17” for the sale of the Apian property.

- [8] Raadt and his family took occupation of the property on 01 March 2014 and paid a monthly occupational rent of R20,000.00 with effect from 20 January 2014. He had, in addition, purchased pre-paid electricity coupons for R10,000.00 from Ms Moore for use at the Apian property. From March to December 2014 Raadt paid a total amount of R1,478,650.00 towards the purchase price of the property. This amount also included the R360,000.00 payable towards the occupational rent. Ms Moore utilised these monies to purchase properties in Barkly West.
- [9] Raadt attended the Municipal offices in November 2014 to purchase electricity coupons and was informed that the account on the property had been blocked for a period of five years and that Ms Moore is not the owner of the said Apian property. He confronted her demanding the refund of the payments made towards the purchase price. She explained that the money was used to purchase the Barkly West properties. Ms Moore further informed Raadt that there were problems in the finalisation of the estate, however he could still pay a further R1 million towards the purchase price of the Apian property.
- [10] Raadt did not make further payments towards the property and looked for the deceased's children who were unaware of the sale of the property. He was advised to contact the estate administrators who later referred him to Mr Louis Lategan, the estate attorney. Lategan advised Raadt to make further payments into the estate but none were made. The NDPP argued that Raadt's decision to discontinue making the payments was not, as contended by respondents, that he was unsuccessful to obtain finance to

settle the balance, but was due to the realisation that Ms Moore was not the lawful owner of the property and was therefore not entitled to sell it. His failure to make further payments towards occupational rent resulted in an action being instituted against him in the Magistrates Court, Kimberley on 10 February 2016 for arrear payment and cancellation of the rouwkoop sale agreement. The Magistrate granted default judgment against him on 26 April 2016 in favour of Ms Moore. He applied for rescission of the said judgment but the application was dismissed on 27 June 2016. An application for his eviction from the Apian property was filed by Ms Moore on 1 September 2016 and he was evicted on 25 April 2017. It is common cause that the two Barkly West properties were bought using the money paid by Raadt to Ms Moore.

- [11] Ms Moore had signed the offer to purchase the Barkly West properties from Mr Lodewikus Theodorus Pienaar on 10 February 2014 for R1 million payable in four instalments of R250,000.00 with effect from 07 April 2014 with the last instalment on 07 July 2014. Mr Jacobus Smit, a Senior Financial Investigator attached to the Asset Forfeiture Unit, conducted an analysis in her Standard Bank account, which showed that there was no other income received into that account, except the money paid by Raadt. That same account was used to make payments to Pienaar. The CM Property Trust was founded on 27 November 2014 by Letter of Authority, whose trustees are the second and third respondents. The Barkly West properties were transferred into the name of the CM Property Trust on 23 September 2015 and 12 October 2015. It is the NDPP's case that the Trust was created solely for purposes of registering the Barkly West properties. What is significant is that the Registrar of Deeds first registered the Apian property into Ms Moore's name on 17 October 2018 as it appears on annexure "CM 23".

- [12] The version of the respondents is that Ms Moore was entitled to sell the Apian property on the strength of the 2013 redistribution agreement which expressly authorised her to deal with the property as she deemed fit, which included the right to sell it, so the argument went. The agreements she concluded with Raadt were, according to her, lawful. She had the intention to transfer the property to Raadt upon full payment of the purchase price. It was submitted on her behalf that she was entitled to receive both the monthly occupational rent and payments towards the purchase price. It was further argued that she had complied with the obligations in the 2013 redistribution agreement.
- [13] Ms Van Dyk, for the NDPP, submitted that at the time of the sale of the Apian property to Mr Raadt, Ms Moore was the registered owner of an undivided half share of the Apian property as the other undivided half share formed part of the deceased estate. She was not entitled to sell the property to Raadt in January 2014. To bolster this submission, she referred this Court to Clause 3 of the redistribution agreement, which permitted the parties to rent or market the properties whilst the sale of such properties had to occur after or simultaneously with the transfer of the property.⁷ Clause 5 made provision in the event that Ms Moore required transfer of the property before the expiry period of eight months then an amount of R200,000.00 or the remaining portion thereof would be payable on transfer or from the proceeds of the property and the necessary guarantees were applicable.⁸

⁷ "Die partye kan dan voortgaan om met die eiendomme te handel dws te verhuur of te bemark. Verkoop sal egter na oordrag van die eiendom of met gelyktydige oordrag van die eiendom hanteer moet word."

⁸ "Indien Mev Moore Apian verkoop voor die agt maande verstryk het en sy verlang oordrag, sal die R200,000.00 (of oorblywende gedeelte) betaalbaar wees by transport vanuit die opbrengs van eiendom. Die nodige waarborge sal van toepassing wees."

[14] On 27 January 2014 when Ms Moore entered into a rouwkoop sale agreement with Mr Raadt, she did so in her personal capacity without the knowledge of the executor of the estate. Ms Van Dyk urged the Court to have regard to the following factors when considering the role of Ms Moore:

- 14.1 Had an attorney been approached to consider the contract for the Apian property sale, the first step would have been to conduct a Deeds Search to establish its owner. He or she would have been aware that the property was part of an estate preventing Ms Moore to sell it as its owner. However, because she knew or was aware at that stage that she was not its owner and cannot sell it to Raadt, she had the contract of sale drawn by a certain Mr R Van Niekerk, who was, at the time, her husband;
- 14.2 The intention of Ms Moore selling prepaid electricity of R10,000.00 to Mr Raadt upon his occupation of the Apian property should not be assessed in isolation but together with all the other surrounding circumstances;
- 14.3 The fact that she failed to disclose to Mr Raadt that the electricity account was blocked by the Municipality due to the account being in arrears and that there were no transactions permitted for purposes of this property, should not be overlooked;
- 14.4 That the Apian property was in fact part of the deceased estate which was not yet finalised when she portrayed to Mr Raadt that she was its legal owner with the right to sell it. She used the

payment received from Raadt to purchase the Barkly West properties.

14.5 If Ms Moore intended to sell the Apian property lawfully, the sale should have been through the executor, as in the case of the Camelot properties and not by her directly.

[15] Mr Pienaar argued that there exists genuine dispute of facts. On the basis of the Plascon-Evans principle⁹, he contended, that this Court ought to accept the version of the respondents unless it is far-fetched. He argued that the version is not false. Counsel further argued that, in terms of the 2013 redistribution agreement, Ms Moore was entitled to deal with the property as she deemed fit. Mr Pienaar also relied on Clauses 3 and 5 of the redistribution agreement already referred to above. According to Mr Pienaar, the redistribution agreement was concluded and signed before the sale of property to Mr Raadt. Counsel further argued that Ms Moore received the benefits pertaining to the sale of the Apian property after the redistribution agreement was signed by the parties concerned. In my view, these disputes of fact are not genuine and are certainly soluble on the papers as they stand.

[16] What stands for determination is whether the Barkly West properties are proceeds of unlawful activities. The remarks by Ackerman J in *Mohammed NO*¹⁰ relating to Chapter 6 of POCA are relevant:

“Chapter 6 provides for forfeiture in circumstances where it is established on a balance of probabilities, that property has been used to commit an offence, or constitutes the proceeds of unlawful activities, even where no criminal proceedings in respect of the relevant crimes have been instituted. In this respect, Chapter 6 needs to be understood in contradiction to Chapter 5 of the Act. Chapter 6 is therefore focused,

⁹ Plascon-Evans Paints (TVL) Ltd v Van Riebeeck Paints (Pty) Ltd 1984 (3) SA 623 (A)

¹⁰ NDPP v Mohammed NO and Others 2002 (2) SACR 196 (CC)

not on wrongdoers, but on property that has been used to commit an offence or which constitutes the proceeds of crime. The guilt or wrongdoing of the owners or possessors of property is, therefore, not primarily relevant to the proceedings. There is, however, a defence at the second stage of the proceedings when forfeiture is being sought by the State. An owner can at that stage claim that he or she obtained the property legally and for value, and that he or she neither knew nor had reasonable grounds to suspect that the property constituted proceeds of crime or had been an instrumentality in an offence ("the innocent owner" defence)."

[17] POCA defines 'proceeds of unlawful activities' as meaning

"any property or any service advantage, benefit or reward which was derived, received or retained, directly or indirectly, in the Republic or elsewhere, at any time before or after the commencement of this Act, in connection with or as a result of any unlawful activity carried on by any person, and includes any property representing property so derived."

[18] The definition is wide and as confirmed by the SCA in *Cook Properties*¹¹ it also applies to individual wrong-doing. The definition fundamentally requires that the property in question be 'derived, received or retained' in connection with or as a result of an unlawful activity.¹² It needs to be borne in mind that POCA's objectives include, among others, the removal of incentives of crime and advancing the ends of justice.

[19] When Ms Moore sold the property to Mr Raadt, she had been removed by the Master of the High Court as the Executrix and, as correctly argued by the NDPP, had no right to directly sell the Apian property herself without involving the Executor, as the Apian property formed part of the estate. To countervail this position, Mr Pienaar, relying on *Loomcraft Fabrics CC*¹³, argued that Ms Moore has made an error in interpreting the provisions of the redistribution agreement, but that did not mean she had

¹¹ National Director of Public Prosecutions v RO Cook Properties (Pty) Ltd; National Director of Public Prosecutions v 37 Gillespie Street Durban (Pty) Ltd & Another; National Director of Public Prosecutions v Seevnayaran 2004 (2) SACR 208 (SCA) at 239

¹² Cook Properties para 64

¹³ Loomcraft Fabrics CC v Nedbank Ltd 1996 (1) SA 812 (A) at 822G

the intention to defraud Mr Raadt. That may well be, but still does not account for the exclusion of the executor from the sale.

[20] This was no error on the part of Ms Moore as argued by her counsel. She was well aware of both the clause in the deceased's Last Will and Testament as well as the contents of the redistribution agreement. Had she complied with the same, she would have made the R200,000.00 payment to the estate within 8 months from the date of signature of the redistribution agreement. More importantly, is that the parties were at liberty to let (verhuur) or to market (bemark) the property. The redistribution clause is unambiguous, reiterated by the executor's, Ms Malherbe's, e-mail that the sale of the property was to occur **after the transfer to Ms Moore** or had to happen **simultaneously with the transfer**. There is a proviso in the agreement that, should Ms Moore sell the property before the lapse of the 8 months period and requires transfer, the R200,000.00 or any remaining amount shall be payable on transfer from the proceeds of the property. The necessary guarantees were applicable.

[21] A correct reading of Ms Malherbe's email, emphasised point 3 of the redistribution agreement "CM14", that the sale of the Apian property will only be possible after the transfer of the property, which was only transferred in the name of Ms Moore on 17 October 2018. It is clear that when she sold the property to Raadt in 2014, she had no right to do so. In any event, when the redistribution agreement was entered into, it was expressly agreed that Ms Moore would pay the amount of R200,000.00 into the estate within 8 months of signature by all the parties. This was not done. Evidently, Ms Moore was not entitled to the total amount of R1,478,650.00 which I conclude are proceeds of her unlawful activities.

She has unfairly benefitted therefrom by acquiring the Barkly West properties.

[22] Equally true is that on the plain reading of the redistribution agreement clause, as well clause 1.3 which includes 1.3.1 and 1.3.2 of the testator's Last Will and Testament, applying the ordinary grammatical meaning to the phrases, Ms Moore had to comply with the conditions set out in the Will by paying a bequest to the estate equal to the sworn valuation of the late Mr Diedericks' share in the said dwellings, as determined by the executor for estate administration purposes. This, she would not have known without the involvement of the executor. Secondly, the sale of the property was to occur after the transfer or had to happen simultaneously with the transfer. This was not the case.

[23] The second respondent, Mr Christopher Moore, is Ms Moore's son. He contended that because he had cared and maintained his mother, she gave him the Barkly West properties, which were subsequently registered in the name of his Trust. The evidence suggests that the Trust was established solely for purposes of the registration of these properties. There is, in my view, no case made out that Mr Moore had legally acquired interest in the Barkly West properties, which warrants consideration pertaining to proportionality. At the risk of repetition, the full amount of the purchase price for the Barkly West properties was from Mr Raadt.

[24] The relief that the NDPP is seeking is for both immovable properties to be forfeited to the State because the capital amount paid for both was R1 million and Ms Moore had received R1,478,650.00.

[25] The Constitutional Court in *Botha*¹⁴ admonished the courts considering forfeiture applications to pay attention to the issue of proportionality. The majority in the *Botha* judgment¹⁵ remarked that the order should be limited to the value of the proceeds. I wish to reiterate the purpose of forfeiture, namely, to combat serious crimes and remove the incentive to commit such crimes. It cannot be said that forfeiture, under these circumstances, is arbitrary. Ms Moore's acquisition of the Barkly West properties was because of the moneys paid to her instead of to the estate for the sale of property, which was not transferred into her name yet. The said Apian property has finally been transferred to her and is currently occupied by her son despite having received and benefited for R1,478,650.00 which would, ordinarily, have been paid into the estate. Ms Moore has from the proceeds of the sale of the Apian property unlawfully gained the acquisition of the Barkly West properties. Borrowing from the words of Jafta J¹⁶ "*Forfeiture of the proceeds of crime in the present circumstances cannot constitute arbitrary deprivation of property.*" It was indicated in the answering affidavit that the two properties are unoccupied at this stage.

[26] Chapter 3 of POCA and more particularly sections 4 to 8 thereof deal with money laundering. Sec 4 defines money laundering as:

"Any person who knows or ought reasonably to have known that property is or forms part of the proceeds of unlawful activities and –

- (a) enters into any agreement or engages in any arrangement or transaction with anyone in connection with that property, whether such agreement, arrangement or transaction is legally enforceable or not; or*
- (b) performs any other act in connection with such property, whether it is performed independently or in concert with any other person, which has, or is likely to have the effect –*

¹⁴ National Director of Public Prosecutions v Botha N.O. and Another [2020] ZACC 6; 2020 (1) SACR 599 (CC); 2020 (6) BCLR 693 (CC) (26 March 2020)

¹⁵ At para 103

¹⁶ At para 117

- (i) *of concealing or disguising the nature, source, location, disposition or movement of the said property or the ownership thereof or any interest which anyone may have in respect thereof, or*
 - (ii) *of enabling or assisting any person who has committed or commits an offence, whether in the Republic or elsewhere-*
 - (aa) *to avoid prosecution; or*
 - (bb) *to remove or diminish any property acquired directly, or indirectly, as a result of the commission of the offence,*
- shall be guilty of an offence.”*

Ms Moore knew when she sold the Apian property that she was not entitled to sell it and receive the money from Raadt. The submission by the NDPP that she bought the Barkly West properties with the money she received from Raadt to disguise its origin, is persuasive. The subsequent registration of the said property in a trust belonging to her son strengthens this argument.

[27] It is evident at this stage that the respondents’ version in respect of the proceeds of the sale of the Apian property and Ms Moore’s action can definitely not be categorised as ‘a mere error, misunderstanding or oversight’ as submitted by her counsel. Her interpretation of the redistribution agreement that led to her premature sale of the property stands to be rejected and the NDPP’s version accepted as probable. The Barkly West properties are found to be proceeds of unlawful activities and stands to be forfeited. It is my view that the Barkly West properties were not acquired lawfully and should not enjoy the protection afforded by s 25 of the Constitution. I am further of the view that the NDPP has met all the jurisdictional requirements for the granting of both a preservation of property order and a forfeiture order.

[28] In as far as the costs are concerned, there is no reason why they should not follow the result.

[29] In the result, the following order is made:

1. **An order is hereby granted in terms of the provisions of section 50 of the Prevention of Organised Crime Act 121 of 1998 (POCA), declaring forfeit forthwith to the State the following property: Erf 1434 Barkly West, known as 14 Schoeman Street, Barkly West and Erf 1435 Barkly West, known as 16 Schoeman Street, Barkly West (the property) which is presently subject to a preservation of property order granted by this Court under Case Number 628/20 on 20 March 2020.**
2. **In terms of section 50(6) of POCA, paragraph 5 below shall take effect 45 days after publication of a notice thereof in the Government Gazette.**
3. **As per the Court Order dated 24 July 2020, paragraph 1.1 the property will remain in the possession of and/or control of the Respondents under the conditions as per the Court Order pending the outcome of the forfeiture application.**
4. **On the date on which this Order takes effect, to wit 45 weekdays after publication in the Government Gazette the Respondents shall hand the property to the Senior Special Investigator, Jacobus Smit of the applicant who shall:**
 - a. **Assume control of the property and take it into his custody;**
 - b. **Sell the property at a best price either by public auction or private treaty;**
 - c. **Sign all documents necessary to effect the sale, transfer and registration of the property; and**

- d. Pay the proceeds thereof, less any commission and incidental expenses occasioned by the sale into the Criminal Asset Recovery Account number 80 303 056 established in terms of section 63 of POCA.**
- 5. The applicant be and is further directed to publish a notice of this Order in the Government Gazette as soon as it is practicable.**
- 6. The respondents are ordered to pay costs of this application jointly and severally, the one paying the other to be absolved.**



MAMOSEBO J

NORTHERN CAPE DIVISION

For the applicant:

Adv L Van Dyk

Instructed by:

The State Attorney, Kimberley

For the 1st – 5th respondents:

Adv CD Pienaar

Instructed by:

Mervyn Joel Smith Attorneys