

SAFLII Note: Certain personal/private details of parties or witnesses have been redacted from this document in compliance with the law and [SAFLII Policy](#)

**REPUBLIC OF SOUTH AFRICA
IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, JOHANNESBURG**

CASE NO: 084085/2023

(1)	<u>REPORTABLE: YES / NO</u>
(2)	<u>OF INTEREST TO OTHER JUDGES: YES/NO</u>
(3)	<u>REVISED.</u>
..... DATE	 SIGNATURE

In the matter between:

ROCH URSELA

Applicant

and

KALALA WILLY

1st Respondent

KALALA MATETSOANE YVONNE

2nd Respondent

SHABI PABALO GLORIA BONITA

3rd Respondent

KABWEBE KAMONG GRACE

4th Respondent

CITY OF JOHANNESBURG

5th Respondent

JUDGMENT

MAKUME J:

[1] In this matter the Applicant seeks an order evicting the 1st to 4th Respondents and all those who occupy her property through the Respondent. The property is situated at 4[...] B[...] Drive, G[...]

[2] The Applicant also seeks money judgement order being in respect of arrear rental.

[3] It is common cause that the Applicant and the first Respondent concluded a lease agreement in terms of which the Respondent agreed to lease the property from the Applicant against payment of monthly rental of R18 000.00.

[4] The Applicant says the lease period was for 12 months commencing on the 1st December 2020 and terminating on the 1st December 2021. The first Respondent avers that there was an error in that the lease was for a period of 36 months not 12 months.

[5] The Respondent fell into arrears with payments as a result the Applicant cancelled the lease agreement as she was entitled to. The Respondent raises the following defences:

5.1 Firstly that the lease agreement is governed by the Consumer Protection Act.

5.2 Secondly that the application for eviction was launched prematurely.

5.3 Thirdly that the lease agreement was wrongly cancelled.

[6] On expiry of the lease the Respondents did not vacate but remained in occupation on a month-to-month lease. On the 27th July 2023 the Applicant's attorneys addressed a letter of demand to the Respondents demanding payment of arrear rental which at that time stood at R265 496.33.

[7] The Respondents failed to make payment within the stipulated time as a result on the 4th August 2023 the Applicant informed the Respondents about cancellation of the lease agreement.

[8] When the parties appeared before me in the morning Counsel for the Respondents had not filed heads and in view of the nature of the matter and Applicant's Counsel not agreeing to any postponement I stood the matter to 14h00 to enable Counsel for the Respondent to either file a comprehensive application for a postponement or to file heads.

[9] The matter resumed at 14h00 with the Respondent having in the meantime filed concise heads of argument. Nothing new came out of the heads and ultimately it turned out that the only thing that the Respondents now wishes the Court to take into consideration was that if the eviction application is granted he and his family will be rendered homeless. He relied on the provisions of Section 4(7) of the PIE Act.

[10] This belated defence in my view demonstrated that the Respondent was being somewhat disingenuous and typically cynical. I say this because in his answering affidavit the Respondent indicated that he was in the process of building a house and needed time until the end of January 2024 by which time he and his family would vacate.

[11] He is employed and earns well above the minimum threshold for consideration of municipal housing. In the result I granted an order as prayed for as per the draft order marked X attached hereto.

DATED at JOHANNESBURG this the day of August 2024.

M A MAKUME
JUDGE OF THE HIGH COURT
GAUTENG LOCAL DIVISION, JOHANNESBURG

APPEARANCES

DATE OF HEARING : 01st August 2024

DATE OF JUDGMENT : August 2024
FOR APPLICANT : ADV L PETER
INSTRUCTED BY : MESSRS HARRIS INCORPORATED ATT.
FOR 1ST RESPONDENT : ADV MOKHETHI
INSTRUCTED BY : MESSRS STABIN GROSS AND SHULL