

**REPUBLIC OF SOUTH AFRICA**



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

**CASE NO: 56445/2020**

1. REPORTABLE: ~~YES~~/ NO
2. OF INTEREST TO OTHER JUDGES: ~~YES~~/NO
3. REVISED: ~~YES~~ / NO

DATE: *13 FEBRUARY 2025*

SIGNATURE OF JUDGE: [REDACTED]

In the matter between:

**RUDZANI MORRIS NNDWAMBI**

**PARALLEL PROPERTY HOLDINGS (PTY) LTD**

**THIFHELIBILU ERNEST NESANE**

**First Applicant**

**Second Applicant**

**Third Applicant**

and

**RICHARD KEAY POLLOCK N.O**

**NURJEHAN ABDOOL GAFAAR OMAR N.O**

**OSCAR JABULANI SITHOLE N.O**

**IGNATIUS CLEMENT MIKATEKO SHIRILELE N.O**

**MICHELLE SCHUTTE N.O**

**First Respondent**

**Second Respondent**

**Third Respondent**

**Fourth Respondent**

**Fifth Respondent**

(In their capacities as the Joint liquidators of the Sixth Respondent)

**JUDGMENT – LEAVE TO APPEAL**

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- [1] The applicants applied for leave to appeal to the Supreme Court of Appeal, alternatively; to the full bench of the Gauteng Division, Pretoria against the order and ensuing judgment handed down by this Court on 07 November 2024.
- [2] For ease of reference, the parties are referred to as in the main application.
- [3] Before contending with the Leave to Appeal application itself, I deem it apposite to deal here with the conduct of the 1<sup>st</sup> – 3<sup>rd</sup> respondents to the main application and being the applicants in this leave to appeal application. This is so in circumstances where these applicants and their legal representatives again chose to absent themselves from court proceedings of 13 February 2025 and which then is consistent with these applicants' conduct in the course of the rescission of judgment application set down for hearing on 04 November 2024 and which conduct is detailed in my judgment of 17 December 2024.
- [4] In this regard, following on uploading the leave to appeal application to CaseLines on 13 November 2024, the above applicants further uploaded supplementary grounds for leave to appeal on 08 January 2025. Hereupon, no further steps were taken by these applicants in the pursuance of this leave to appeal application and including in their production of heads of argument and with that, in actually attending on the leave to appeal application allocated for hearing on 13 February 2025.

- [5] On 13 January 2025 and in contending with this leave to appeal application, I on notice further referencing my allocated High Court registrar, wrote to the respective litigants' legal representatives requesting dates for the hearing of this leave to appeal. The above applicants' legal representative – Hlongwane Mavhase Inc. (Ref: Mr. D Hlongwane) acknowledged receipt of this correspondence on 15 January 2025 and confirmed awaiting their legal counsel's provision of dates and times. In the interim, nothing further was forthcoming from Hlongwane Muvhase Inc. and on 31 January 2025, I again wrote to this law firm requesting the above outstanding dates and times to hear this leave to appeal; in the process proposing 12-13 and 19-20 February 2025. Again, nothing was forthcoming from Hlongwane Mavhase Inc. hereon. In the interim, legal representatives for the 1<sup>st</sup> – 6<sup>th</sup> applicants and the 4<sup>th</sup> – 5<sup>th</sup> respondents (in the main application) reverted confirming that their legal counsel being available to argue the leave to appeal on 13 February 2025.
- [6] Accordingly, on 03 February 2025 I issued a directive through the Office of the Judge President of the above Honourable Court, duly uploaded to CaseLines, confirming inter alia; that this leave to appeal would be argued on 13 February 2025 and with that requested the production of heads of argument and draft orders be uploaded to CaseLines by 12:00 on 11 February 2025. This is consistent with 33.14 read with 33.16 of the Consolidated Practice Directive 1 of 2024. In this regard and as envisaged in 24.8 of the above Practice Directive, none of the litigants' legal representatives via the registrar of the above Honourable Court requested specific dates to be allocated and in accommodating the availability of their legal counsel.
- [7] At court on 13 February 2025, neither the applicants' nor their legal representatives were in attendance. I duly stood the above leave to appeal application down for 2 hours to 12:00 and in order to afford the applicants' legal representatives additional time to

appear in this application. Suffice to record that there were no appearances made and this opposed leave to appeal application proceeded in their absence.

[8] The conduct of the above applicants and their various legal representatives in their rescission of judgment and ensuing leave to appeal applications is best described as being cavalier and utterly discourteous to this Court, being disregarding of court process including that of practice directives, thoroughly unprofessional and with that actually disingenuous and manipulative. There is no plausible explanation available to explain and justify this conduct.

[9] In turning to the leave to appeal at hand, full reasons were provided in the judgment that I compiled on 17 December 2024 and I do not propose furnishing further reasons here.

[10] Sec 17 (1) of the Superior Court Act No 10 of 2023 ("The Act") provides:

*"Leave to Appeal may only be given where the judges concerned are of the opinion that:*

- (i) The Appeal would have a reasonable prospect of success; or*
- (ii) there is some compelling reason why the Appeal should be heard, including conflicting judgements on the matter under consideration".*

[11] Sec 17(1)(a) of the Act provides a stringent test wherein the Court must be satisfied that the appeal would have a reasonable prospect of success. (See **Mont Chevaux Trust (IT2012/28) v Tine Goosen**. Unreported, LCC Case No LCC 14R/2014, dated 3 November 2014, **Notshokovu v S**, unreported, SCA Case NO 157/15 dated 07 September 2016 and **Erasmus Superior Court Practice**. DE Van Loggenberg, Vol Part A, R512, 2020 A2-55.

[12] In my opinion the applicants have not met this threshold.

[13] Further, there are no conflicting judgments which would have to be considered by the Superior Court of Appeal in terms of Sec (17(1)(a)(ii) of the Act and the public interest will not be served by an appeal in respect of which there is no legal uncertainty.

[14] In the circumstances, I am not persuaded that another Court will come to a different conclusion. The applicants' grounds of appeal and reasons therefore not justifying leave to appeal being granted and there is no compelling reasons to grant leave in terms of Sec 17(1)(a) of the Act.

### **ORDER**

Having read the papers and heard counsel, it is ordered that:

1. The application for leave to appeal the order and judgment of 07 November 2024 is dismissed; and
2. the applicants are ordered to pay the respondents' costs of the application on an attorney and own client scale, including that of legal counsel at scale B.

  
**JOHN RICHARD MEADEN**  
**ACTING JUDGE OF THE HIGH**  
**COURT OF SOUTH AFRICA**  
**GAUTENG DIVISION**  
**PRETORIA**

## **Appearances**

|                          |                        |
|--------------------------|------------------------|
| <b>For Applicants:</b>   | No Appearance          |
| <b>Instructed by:</b>    | Hlongwane Mavhase Inc. |
| <b>For Respondents:</b>  | Adv K Iles             |
| <b>Instructed by:</b>    | Werksmans Attorneys    |
| <b>Date of Hearing:</b>  | 13 February 2025       |
| <b>Date of Judgment:</b> | 13 February 2025       |

*This judgment was handed down electronically by circulation to the parties' and or parties' representatives by email and by being uploaded to CaseLines. The date and time for the hand down is deemed to be 12h30 on this <sup>th</sup> day of February 2025.*