

REPUBLIC OF SOUTH AFRICA



IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

Case Number: 056154/24

(1)	REPORTABLE: NO
(2)	OF INTEREST TO OTHER JUDGES: NO
(3)	REVISED: NO
28/03/2025	
DATE	SIGNATURE

In the matter between:

K20153553/34

Applicant

and

LOUISIA SIBIYA N.O.

First Respondent

ELIZABETH MARGARATE EDWARDS N.O.

Second Respondent

MPOYANA LAZARUS LEDWABA

Third Respondent

(In their capacities as the duly appointed joint liquidators of Artio Investments (Pty) Ltd)

ARTIO INVESTMENTS (PTY) LTD

Fourth Respondent

JUDGMENT

Motha J

Introduction

- [1] Pursuant to an arbitration award dated 19 August 2023, the applicant asserts that his right to an appeal has not lapsed and brings an application for a declaratory order in terms of s21(1)(c) of the Superior Courts Act 10 of 2013. The respondents contend that the applicant's right to appeal has lapsed.

The parties

- [2] The applicant is K 201-535-3134 (South Africa) (Pty) Limited, a private company which is registered in accordance with the company laws of the Republic of South Africa.
- [3] The first respondent is Louisa Sibiya N.O, an adult female joint liquidator of the fourth respondent and practicing as such at Tshwane Trust Company (Pty) Ltd.
- [4] The second respondent is Elizabeth Margaret Edwards N.O, an adult female joint liquidator of the fourth respondent and practicing as such at Xirimele Administrators (Pty) Ltd t/a Xirimele Trustees Pretoria.
- [5] The third respondent is Mpoyana Lazarus Ledwaba N.O, an adult male joint liquidator of the fourth respondent and practicing as such at Lefika Corporate Recoveries (Pty) Ltd.
- [6] The fourth respondent is Artio Investments (Pty) Ltd, a private company with limited liability incorporated in accordance with the company laws of the Republic of South Africa.

Facts in brief

[7] On 16 February 2017, the applicant and the fourth respondent concluded a written agreement in terms of which the applicant purchased the business of the fourth respondent for a purchase price of R36 000 786.00 (inclusive of Vat).

[8] The salient clauses of the parties' agreement are:

"3.2 the purchase is payable by the purchaser as follows: -

20% of the full purchase price as a deposit, to be paid into the transferring attorneys trust account, and at the signature date, invested in a special interest bearing account for the benefit of the purchaser in terms of Section 78 (2A) of the Attorneys Act...

3.2.3 The balance of the purchase price shall be paid in cash or secured by means of a guarantee acceptable to the seller, within 45 (forty-five) business days from demand by the seller...

7. Disputes:

Any dispute, controversy or claim arising out of or relating to the contract or the breach thereof shall be settled by arbitration appointed by AFSA, Pretoria, to be held in Pretoria according to the rules of AFSA in accordance with the law in this jurisdiction, and judgment upon the award rendered by the arbitrator may be entered in any Court having jurisdiction thereof...

11.3 In the event of cancellation of this agreement, the purchaser shall forfeit all monies paid, including commission paid in terms of this agreement to the seller as liquidated damages...

15. AMENDMENTS AND ADDITIONS:

The terms and conditions contained in this agreement constitute the sole agreement between the parties relating to the business and no variation or

amendment there too shall be binding unless reduced to writing and signed by the parties hereto

16. WAIVER AND CONCESSION:

16. 1 any waiver or concession made or allowed by the seller shall not constitute a waiver of his rights in terms of this agreement and the seller shall at all times be entitled to enforce strict compliance hereof...”

Issues

- [9] Following the conclusion of the above-mentioned agreement, the applicant paid a deposit of R7 200 157.10. Subsequently, the applicant failed to settle the balance of the purchase price. On 15 April 2021, Madibeng Property Investment offered the sum of R23 000 000.00 (excluding Vat) to the fourth respondent for the purchase of the property in question.
- [10] On 6 May 2021, the fourth respondent addressed correspondence to the applicant informing it about the offer. Essentially, the correspondence was meant to illicit a response from the applicant regarding its contractual obligation, before the property was sold to a third party. Upon the cancellation of the sale agreement, the respondent accepted the offer by Madibeng Property Investment.
- [11] After receiving the third party's offer, the respondent invoked the forfeiture clause and informed the applicant of the decision to retain the deposit that the applicant had paid as liquidated damages, for the applicant's alleged breach of the sale agreement.
- [12] In September 2022, the applicant instituted the arbitration proceedings, wherein it claimed payment of R7 200 157.10. On 2 November 2022, the parties attended

a pre-arbitration virtual meeting. The meeting was attended by the arbitrator, Adv DH Hinrichsen, the applicant, represented by ADV D Ramdhani SC with attorney B Malani, and the Respondent, represented by ADV A Roussuw SC with J Reyneke.

[13] Of particular importance from this meeting were the following: first, at 2.3 of the minutes a question was posed: "The AFSA rules will apply to the conduct of this arbitration?" The answer was "Yes." Second, at 4.4. "The parties undertake to comply with the award handed down by the arbitrator within 15 days after the award has been published subject to the either party having the right of appeal. Yes."

[14] On 3 November 2022, the minutes were signed by the Arbitrator, Adv DH Hinrichsen, a member of the Pretoria bar and not by the parties' legal representatives. The arbitration proceedings were conducted under the auspices of AFSA under reference AFSA PTA 02092022. Importantly, during the arbitration the parties agreed to remove the arbitration from the AFSA and administered the arbitration privately to reduce costs.

[15] On 19 August 2023, the arbitrator handed down the arbitration award. The applicant did not waste time filing the notice of appeal, on 29 August 2023. Before this court, the dispute was crystallized and circumscribed to whether the applicant's right to appeal had lapsed. The respondent submitted that the parties had agreed that the appeal would be heard in terms of Article 22 of AFSA. The applicant contended that the parties agreed to deal with the appeal away from the rules of AFSA, as demonstrated by their conduct. At this juncture, it is apt to pause and mention Article 22:

“22.1 Where the parties have, whether in terms of the arbitration agreement or otherwise, in writing agreed that an interim award or the final award of an arbitrators shall be subject to a right of appeal the following rules shall, save to the extent otherwise agreed by them in writing, apply.

22.2 A notice of appeal shall be delivered by the appellant, within 7 calendar days of publication of the award, failing which the interim award or final award shall not be appealable.”

- [16] It is common cause that the applicant did not comply with the letter of Article 22 and therein lies the heart of this dispute. According to the respondent the failure to follow Article 22, *ipso facto*, meant the appeal had lapsed. As already stated, the applicant submitted that the conduct of the parties clearly demonstrated that the parties did not want to follow Article 22 of the rules of AFSA, and instead they wanted to carve out their own rules.

The law

- [17] In the matter of *Lufuno Mphaphuli & Associates (Pty) Ltd v Andrews and Another*¹, O'Regan ADCJ: held:

“In approaching these questions, it is important to start with an understanding of the nature of private arbitration. Private arbitration is a process built on consent in that parties agree that their disputes will be settled by an arbitrator. It was aptly described by Smalberger ADP in *Total Support Management (Pty) Ltd and Another v Diversified Health Systems (SA)(Pty) Ltd and Another* as follows:

“The hallmark of arbitration is that it is an adjudication, flowing from the consent of the parties to the arbitration agreement, who define the powers of

¹ [2009] ZACC 6; 2009 (4) SA 529 (CC)

adjudication, and are equally free to modify or withdraw that power at any time by way of further agreement.”²

[18] Discussing the advantages of arbitration, O’Regan ADCJ continued:

“Some of the advantages of arbitration lie in its flexibility (as parties can determine the process to be followed by an arbitrator including the manner in which evidence will be received, the exchange of pleadings and the like), its cost-effectiveness, its privacy and its speed (particularly as often no appeal lies from an arbitrator’s award, or lies only in an accelerated form to an appellate arbitral body).”³

[19] With that backdrop in mind, this court should, of necessity, determine what the parties consented to when signing the sale agreement. Particularly, on the issues of dispute resolution, whether they subsequently modified or withdrew clause 7. Dealing with the interpretation of contracts, the constitutional court in *University of Johannesburg v Auckland Park Theological Seminary and Another*⁴ held:

“The approach in *Endumeni* “updated” the previous position, which was that context could be resorted to if there was ambiguity or lack of clarity in the text. The Supreme Court of Appeal has explicitly pointed out in cases subsequent to *Endumeni* that context and purpose must be taken into account as a matter of course, whether or not the words used in the contract are ambiguous. A court interpreting a contract has to, from the onset, consider the contract’s factual matrix, its purpose, the circumstances leading up to its conclusion, and the knowledge at the time of those who negotiated and produced the contract.

[67] This means that parties will invariably have to adduce evidence to establish the context and purpose of the relevant contractual provisions. That evidence could include the pre-contractual exchanges between the parties leading up to

² Supra para 195

³ Supra para 197

⁴ [2021] ZACC 13; 2021 (8) BCLR 807 (CC); 2021 (6) SA 1 (CC) (11 June 2021)

the conclusion of the contract and evidence of the context in which a contract was concluded. As the Supreme Court of Appeal held in *Novartis*:

“This court has consistently held, for many decades, that the interpretative process is one of ascertaining the intention of the parties – what they meant to achieve. And in doing that, the court must consider all the circumstances surrounding the contract to determine what their intention was in concluding it. . . . A court must examine all the facts – the context – in order to determine what the parties intended. And it must do that whether or not the words of the contract are ambiguous or lack clarity. Words without context mean nothing.”

Discussion

Counsel for the respondents' submissions

[20] Counsel for the respondent pointed out that between the tramlines of the notice to appeal reads: “APPELLANT’S/ CLAIMANT’S NOTICE OF APPEAL IN TERMS OF ARTICLE 22 OF THE AFSA COMMERCIAL RULES”. According to counsel for the respondent, this was one of the indications that the applicant wanted to be bound by the rules of AFSA. The fact that the applicant failed to comply with Article 22 meant that the final award had not been appealed, he submitted. The appeal was neither served on the Registrar of AFSA nor was the original filed with the Registrar of AFSA.

[21] He argued that the applicant failed to deliver the notice of appeal within 7 calendar days of the publication of the award and under AFSA’s Rules delivery is defined as:

“ to deliver or send copies to all parties as provided for in these Rules, and to file the original to the Registrar; and “delivery” has a corresponding meaning; but

“physically deliver” shall mean physically deliver to the party indicated by context.”⁵

[22] From the commencement of the proceedings, the parties agreed that neither the Uniform Rules of the High Court nor the Rules of the SCA applied. If AFSA rules do not apply, the parties did not have any other rules to turn to, his submission went.

[23] When read with clause 7 of the parties’ agreement, he further submitted that in totality the parties agreed that AFSA Rules would apply. The reality is that the parties were legally represented and if they wanted to alter the terms of their contract, they would have done so, his submission continued. Counsel for the respondent cautioned this court against writing a contract for the parties. To this end, he referred to the matter of *Capitec Bank Holdings Limited and Another v Coral Lagoon Investments 194 (Pty) Ltd and Others*,⁶ where the court said:

“Our analysis must commence with the provisions of the subscription agreement that have relevance for deciding whether Capitec Holdings’ consent was indeed required. The much-cited passages from *Natal Joint Municipal Pension Fund v Endumeni Municipality (Endumeni)* offer guidance as to how to approach the interpretation of the words used in a document. It is the language used, understood in the context in which it is used, and having regard to the purpose of the provision that constitutes the unitary exercise of interpretation. I would only add that the triad of text, context and purpose should not be used in a mechanical fashion. It is the relationship between the words used, the concepts expressed by those words and the place of the contested provision within the scheme of the agreement (or instrument) as a whole that constitutes the enterprise by recourse to which a coherent and salient interpretation is determined.

⁵ Para 11.3 f the Respondent’s heads of argument

⁶ (470/2020) [2021] ZASCA 99; [2021] 3 All SA 647 (SCA); 2022 (1) SA 100 (SCA) (9 July 2021)

As *Endumeni* emphasised, citing well-known cases, '[t]he inevitable point of departure is the language of the provision itself'...

Endumeni is not a charter for judicial constructs premised upon what a contract should be taken to mean from a vantage point that is not located in the text of what the parties in fact agreed. Nor does *Endumeni* licence judicial interpretation that imports meanings into a contract so as to make it a better contract, or one that is ethically preferable."⁷

Counsel for the applicant's submissions

- [24] Counsel for the applicant submitted that the parties wanted different rules to apply on appeal, hence, following the applicant's delivery of its notice of appeal, on 28 September 2023 at 15h15, a meeting was held via a tele-conference between the legal representatives of the parties, namely: Ms. Reyneke and Mr Malani. It is common cause that the respondent's attorney, Ms Reyneke, distributed the proposed draft minutes of the meeting, on 29 September 2023. The two sticking points were how many retired judges should be part of the appeal panel- the applicant wanted three whilst the respondent wanted two- and the issue of R500 000-00 security.
- [25] Since the parties agreed, during the hearing, to transition the arbitration from AFSA to the one administer by themselves, he submitted that the respondents were being opportunistic in amending their heads of argument and the case at the eleventh hour to suite the argument that the parties wanted to be bound by the AFSA rules. He submitted that the parties' behaviour pre and post arbitration award pointed to the fact that they did not want to be bound by the AFSA rules.

⁷ Supra para 26

[26] Relying on the matter of *Eskom Holdings SOC Ltd v Kuyasa Mining (Pty) Ltd and Others*,⁸ and referring to paragraphs 37 and 39 of the judgment, he submitted that *Kuyasa* is binding on this court. At paragraph 37, the court in *Kuyasa* said:

“What is clear to me from the aforesaid is that in terms of the AFSA Rules themselves, it is intended that these Rules apply as they stand, in all respects, only where AFSA actually administers the arbitration proceedings. My view in this regard is fortified by further provisions in the AFSA Rules themselves. Importantly, and as to how arbitration proceedings are to be initiated, article 4.1 prescribes that a party wishing to resort to arbitration ‘*under the aegis of and according to the Rules of the Foundation*’, shall submit a written ‘*Request for Arbitration*’ to the Secretariat of AFSA through the office of the Registrar. This notice must contain certain prescribed particulars, and the ‘*first fee*’ payable to AFSA. It is however then still up to AFSA to decide whether to accept the referral or not, in its own discretion.”

Analysis

[27] The intractable question is: “Is the meaning of a contract to be understood on the basis of the subjective intentions of the parties to the contract or the objective manifestations of their consensus?”⁹ Put differently: what becomes of what was meant by the parties but not written in the contract *vis a vis* what was written in the contract but not meant? It is common cause that the parties agreed, under clause 7, that the arbitration would be in terms of the rules of AFSA. However, during the arbitration, they opted for a private arbitration outside AFSA rules, as stated in both the founding and answering affidavits. At paragraphs 24 and 25 of the founding affidavit, the applicant stated:

⁸ (084710/2023) [2024] ZAGPPHC 806 (24 July 2024)

⁹ Capital para 42.

“The arbitration proceedings commenced on 2 and 3 March 2023 and thereafter resumed (as a part head) on 2 and 3 May 2023, until 19 August 2023, being the date on which final argument was presented.

During the course of the arbitration and to curtail the increment of further costs the parties jointly agreed to administer the arbitration themselves (namely transitioning the process to a private arbitration), thereby terminating the services of AFSA whereafter the arbitration proceeded as a private arbitration without the administration under the auspices of AFSA.

[28] Confirming that the arbitration was conducted outside the aegis of AFSA, at paragraph 26 of the answering affidavit, the respondents stated:

“Artio and the liquidators defended the claim. The arbitration was initially conducted under the auspices of AFSA under reference AFSA PTA 02092022 but during the arbitration the parties agreed to administer the arbitration amongst themselves.”

[29] To make matters worse, clause 7 did not cater for an appeal. This much is acknowledged by the parties. At paragraph 17 of the answering affidavit, the respondents wrote:

“The Agreement of Sale contained an arbitration clause in clause 7. It did not provide for a right of appeal and simply stated:”

[30] In dealing with the applicant’s failure to comply with Article 22, it is telling that, at paragraph 34 in their answering affidavit, the respondents wrote the following:

“The applicant failed to notify the Secretariat of the appeal, which is understandable as the parties agreed not to use AFSA. However, the applicant took no further steps to prosecute the appeal and JRI suggested that a meeting

be held to agree on the process as is evident from the correspondence annexed...”

[31] *Kuyasa* mirrors the present matter in many respects, and paragraphs 12 and 13 of the judgment the court could easily have been referring to this matter when it held:

“The parties administered the arbitration process themselves. They exchanged pleadings between themselves, and ultimately convened a pre-arbitration conference on 18 February 2019. The pre-arbitration conference was attended by the parties’ legal representatives and the arbitrator, and was minuted. The minutes of the pre-arbitration conference was signed by the legal representatives and the arbitrator on 26 February 2019. Of importance *in casu*, it was agreed in clause 2 of the minute that the AFSA commercial rules shall apply (clause 2.1), and AFSA shall be appointed to administer the arbitration (clause 2.2).

[13] It was in the end common cause that from the outset of the arbitration proceedings, the dispute (arbitration) was not referred or submitted to AFSA for administration, nor was the arbitration conducted under the auspices or supervision of AFSA. It was also common cause that despite the provisions of clause 2.2 of the pre-arbitration minute of 26 February 2019, AFSA was never appointed to administer the arbitration. At all times, the arbitration proceedings were managed by the arbitrator herself, and the parties dealt with it between themselves, until the arbitrator ultimately rendered her award.”

[32] I cannot conceive of any reason why I should not align myself with the *Kuyasa* matter. Considering a scenario akin to the factual matrix of this case, the court in *Kuyasa* held:

“So, if the arbitration is conducted under the auspices / administration of AFSA, then obviously all its Rules will apply without more, subject only to what the parties may have otherwise agreed to as recorded in the arbitration agreement itself. But what if the parties administer the arbitration themselves, without engaging AFSA as prescribed by the various articles in the AFSA Rules referred

to above, but nonetheless agree to conduct the arbitration '*in accordance with*' the AFSA Rules?

[43] Surely, as a matter of common sense and logic, an arbitration cannot be conducted under the auspices of AFSA (or differently put administered by AFSA), where the referring party does not file a referral with AFSA, no fees are paid to it, it does not manage the case, and it does not appoint and / or brief the arbitrator. Therefore, none of these articles can apply, even though other articles relating to issues such as, *inter alia*, the powers of an arbitrator, the issuing of awards, calling of witnesses, representation of the parties, and awards of costs, would."

[33] What is more, since clause 7 did not deal with an appeal, this court cannot fashion an agreement for the parties by dictating that Article 22 finds application. Article 22 is self-explanatory, it requires the parties to agree in writing that an interim award or a final award of an arbitrator shall be subject to a right of appeal. This is not the case in this matter. To save costs, the parties, as in *Kuyasa* "administered the arbitration process themselves"¹⁰

[34] To me, it is patent that this case strikingly resembles *Kuyasa*. The failure to agree on the modus operandi of the appeal is attributable to a number of issues, such as the health challenges of the applicant's attorney or the inaccuracies such as the clause inserted by Reyneke that the failure to follow steps outlined would lead to the collapse of the appeal. One thing is for certain, the applicant filed a notice of appeal promptly with a view to appeal the decision of the arbitrator. The fact that the parties never reached *ad idem* does not, in of itself, lapse the right of the appeal.

¹⁰ Supra para 12.

[35] In *casu*, can I ignore the conduct of the parties pre and post the arbitration award? What about the engagement between the legal representatives of the parties on procedural steps of the appeal? It is certainly not without significance that the respondent identified two judges, Jonathan Hefer and Ben du Plessis, to be appointed as the appeal panel. As already stated, the applicant wanted three judges. To me, in the absence of a written and signed agreement, it is of no moment that the appeal was referred to as being in terms of Article 22. The plain import of paragraph 7 is that the parties did not factor in the possibility of an appeal. It is of considerable importance that Article 22 uses the language “shall not be appealable”, whilst the respondents use the word lapsed. An ordinary meaning of lapse is expired.

[36] The parol evidence rule is still very much part of South African law but must be understood in the context of a constitutional legal framework. The cold interpretation of contracts has been and in fact must be “developed” to be in line with the Bill of Rights of the Constitution. The infusion of the spirit of *ubuntu* in the law of contract is long overdue. Due to the abysmal Gini coefficient and skewed economic power dynamics, South Africa is awashed with contracts, *ex facie*, reflect the meeting of the minds of the parties. When in truth, it is one party who dictates all the terms. Hence, the approach adopted in *Edumeni* is laudable. If you ask me, the view that, save where there are exceptional circumstances such as fraud or duress, extrinsic evidence must not be entertained to modify a contract is archaic and denudes the Constitution of the spirit, purport and objects of the Bill of Rights apparels.

[37] In the *University of Johannesburg* matter, the court had the occasion to look at the parol evidence rule, and held:

“In *KPMG and Swanepoel*, the Supreme Court of Appeal held that the parol evidence rule remains part of our law, and is one of the caveats to the principle that extrinsic contextual evidence may be admitted. The essence of the rule was

most aptly captured in the case of *Vianini Ferro-Concrete Pipes*, where it was stated:

“Now this Court has accepted the rule that when a contract has been reduced to writing, the writing is, in general, regarded as the exclusive memorial of the transaction and in a suit between the parties no evidence to prove its terms may be given save the document or secondary evidence of its contents, nor may the contents of such document be contradicted, altered, added to or varied by parol evidence.”

[89] The rule consists of two sub-rules. This duality was outlined by Corbett JA in *Johnston*:

“As has been indicated, the parol evidence rule is not a single rule. It in fact branches into two independent rules or sets of rules: (1) the integration rule . . . which defines the limits of the contract, and (2) the [interpretation] rule, or set of rules, which determines when and to what extent extrinsic evidence may be adduced to explain or affect the meaning of the words contained in a written contract.”

[90] The parol evidence rule therefore has both an integration facet and an interpretation facet. It is the latter facet that was relied on by the Supreme Court of Appeal. That facet of the rule was explained by Corbett JA as follows:

“In many instances recourse to evidence of an earlier or contemporaneous oral agreement would, in any event, be precluded by . . . that branch of the ‘rule’ which prescribes that, subject to certain qualifications, when a contract has been reduced to writing, the writing is regarded as the exclusive embodiment or memorial of the transaction and no extrinsic evidence may be given of other utterances or jural acts by the parties which would have the effect of contradicting, altering, adding to or varying the written contract. The extrinsic evidence is excluded because it relates to matters which, by reason of the

reduction of the contract to writing and its integration in a single memorial, have become legally immaterial or irrelevant.”

- [38] It is for these reasons that I respectfully disagree with counsel for the respondent that the appeal has lapsed. When one applies the triad of text, context and purpose, the inescapable conclusion is that the parties wanted to administer the appeal themselves.

Declaratory relief

- [39] It is well-known that at common law courts did not have the power to grant declaratory orders without consequential relief. Section s 21(1) (c) of the Superior Courts Practise reads:

“A Division has jurisdiction over all persons residing or being in, and in relation to all causes arising and all offences tribal within, its area of jurisdiction and all matters of which it may according to law take cognizance, and has the power-

(c) in its discretion, and at the instance of any interested person, to inquire into and determine any existing, future or contingent right or obligation, notwithstanding that such person cannot claim any relief consequential upon the determination.”

- [40] I am minded to accede to the applicant’s prayer for a declaratory order. In determining whether to grant a declaratory order, one must keep in mind what was said in the matter of *Cordiant Trading CC v Daimler Chrysler Financial Services (Pty) Ltd*.¹¹ The court held:

“Put differently, the two-stage approach under the subsection consists of the following. During the first leg of the enquiry the court must be satisfied that the

applicant has an interest in an 'existing, future or contingent right or obligation'. At this stage the focus is only upon establishing that the necessary conditions precedent for the exercise of the court's discretion exist. If the court is satisfied that the existence of such conditions has been proved, it has to exercise the discretion by deciding either to refuse or grant the order sought. The consideration of whether or not to grant the order constitutes the second leg of the enquiry."¹²

Costs

[41] It is trite that the award of costs rests entirely within the discretion of the court, save for a few instances. I am of the view that costs should be costs in the appeal.

ORDER

1. It is declared that the applicant's notice of appeal dated 27 August 2023 against the arbitration award dated 19 August 2023 has not lapsed
2. The applicant and the respondents are directed to convene and attend a pre-appeal arbitration meeting to be held within 15 days of the date of this order with a view to reaching an agreement on the number of arbitrators to hear the appeal.
3. The costs are to be costs in the appeal.



M. P. MOTH A
JUDGE OF THE HIGH COURT
PRETORIA

¹² Cordiant Trading CC v Daimler Chrysler Financial Services (Pty) Ltd (237/2004) [2005] ZASCA 50; [2006] 1 All SA 103 (SCA); 2005 (6) SA 205 (SCA) (30 May 2005 para 18

Date of hearing: 19 February 2025

Date of judgment: 28 March 2025

For the Applicant:

D. Ramdhani SC instructed by Asif
Latib Attorneys Inc.

For the Respondents:

M. Louw instructed by Jaco Roos
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