



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

CASE NO: 018984/2024

DELETE WHICHEVER IS NOT APPLICABLE

- (1) REPORTABLE: **NO**
- (2) OF INTEREST TO OTHER JUDGES: **NO**
- (3) REVISED: **NO**
- (4) Date: 05 May 2025

Signature: 

In the matter between:

QUATRO SECURITY SERVICES (PTY) LTD

First Applicant

(Registration No. 2012/107563/07)

QUATRO PROPERTY CARE (PTY) LTD

Second Applicant

(Registration No. 2017/532905/07)

QUATRO CLEANING SERVICES (PTY) LTD

Third Applicant

(Registration No. 2012/176420/07)

QUATRO HORTICULTURAL SERVICES (PTY) LTD

Fourth Applicant

(Registration No. 2015/226303/07)

And

DE MARIONETTE CENTRE INVESTMENTS (PTY) LTD

First Respondent

(Registration No. 2005/037870/07)

FLORA CENTRE INVESTMENTS (PTY) LTD

Second Respondent

(Registration No. 2004/030198/07)

RANGEVIEW INVESTMENTS (PTY) LTD

Third Respondent

(Registration No. 2005/037494/07)

TARENTAAL CENTRE INVESTMENTS (PTY) LTD

Fourth Respondent

(Registration No. 2005/000028/07)

WATERGLEN INVESTMENTS (PTY) LTD

Fifth Respondent

(Registration No. 2005/000076/07)

THE VILLAGE MALL INVESTMENTS (PTY) LTD

Sixth Respondent

(Registration No. 2004/030240/07)

WITBANK HIGHVELD INVESTMENTS (PTY) LTD

Seventh Respondent

(Registration No. 2004/013979/07)

CARLETONVILLE INVESTMENTS (PTY) LTD

Eighth Respondent

(Registration No. 2005/037661/07)

LIBERTY MALL INVESTMENTS (PTY) LTD

Ninth Respondent

(Registration No. 2005/039152/07)

AMBER SUNRISE PROPERTIES 95 (PTY) LTD

Tenth Respondent

(Registration No. 2007/021903/07)

BORN FREE INVESTMENTS 552 (PTY) LTD

Eleventh Respondent

(Registration No. 2006/011303/07)

PLANET WAVES 120 (PTY) LTD

Twelfth Respondent

(Registration No. 2005/039695/07)

JUDGMENT

NYATHI J

- [1] The respondents are applying for leave to appeal against the whole of the judgment and costs order handed down on 27 November 2024. The applicants in the main application are opposing these efforts.

- [2] The test applicable in determining whether to grant or refuse such applications is embodied in section 17(1)(a)(i) and (ii) of the Superior Courts Act 10 of 2013 which provides that:

"17 Leave to appeal

(1) Leave to appeal may only be given where the judge or judges concerned are of the opinion that –

(a) (i) the appeal would have a reasonable prospect of success; or

there is some other compelling reason why the appeal should be heard, including conflicting judgments on the matter under consideration;"

- [3] In dealing with the above section and its effect on applications for leave to appeal, the Supreme Court of Appeal (SCA) in *Notshokovu v S*¹ remarked that an appellant faces a higher and stringent threshold in terms of the Act compared to the provisions of the repealed Supreme Court Act 59 of 1959.

- [4] In *MEC for Health, Eastern Cape v Mkhitha*,² The SCA then held undeniably that an applicant for leave to appeal now faces a more stringent test when it stated:

"[16] Once again it is necessary to say that leave to appeal, especially to this court, must not be granted unless there truly is a reasonable prospect of success. Section 17(1)(a) of the Superior Courts Act 10 of 2013 makes it clear that leave to appeal may only be given where the judge concerned is of the opinion that the appeal would have a reasonable prospect of success; or there is some other compelling reason why it should be heard.

¹ (unreported, SCA case no 157/15 dated 7 September 2016)

² Unreported, SCA case no 1221/2015 dated 25 November 2016.

[17] *An applicant for leave to appeal must convince the court on proper grounds that there is a reasonable prospect or realistic chance of success on appeal. A mere possibility of success, an arguable case or one that is not hopeless, is not enough. There must be a sound, rational basis to conclude that there is a reasonable prospect of success on appeal.*³

[5] Different considerations come into play when a court considers an application for leave to appeal as compared to adjudicating the appeal itself. Leave to appeal should be granted only when there is a sound and rational basis for doing so. The principles that emerge from *Four Wheel Drive Accessory Distributors CC v Rattan NO*⁴ and *Independent Examinations Board v Umalusi*⁵ require that the court test the grounds on which leave to appeal is sought against the facts of the case and the applicable legal principles to ascertain whether an appeal court ‘would’ interfere in the decision against which leave to appeal is sought.⁶

[6] The respondents base their application for leave to appeal on the contention that the court misapplied the *Plascon-Evans* rule⁷ in dealing with Mr Myburgh’s evidence, and that it should have found that as Myburgh submitted, there was a common intention between the parties that their agreement bore tacit terms and that rectification thereof should have been accepted by the court. The respondent’s version of events should have prevailed, and the application dismissed.

[7] The applicants in the main application as in the hearing, vehemently opposed the above submission and referred to the judgment, as being unfounded.

³ Emphasis in Erasmus RS 4, 2024, D-105.

⁴ 2019 (3) SA 451 (SCA) at para [34].

⁵ Unreported, GP case no 83440/2019 dated 7 January 2021 at paras [2] – [4].

⁶ Erasmus – Superior Court Practice

⁷ *Plascon-Evans Paints Ltd v Van Riebeeck Paints (Pty) Ltd* 1984 (3) SA 623 (A).

[8] Having regard to the evidence in the main application, I still find that the respondents' denials which constitute "the disputes" as being far-fetched and clearly untenable as justifying being rejected outright.⁸

[9] For this reason, I am not persuaded by the respondents' submissions. The application fails, and the respondents herein (Quatro Security Services) are entitled to their costs, which should follow the outcome of the matter.

[10] I make the following order:

The application for leave to appeal is dismissed. The respondents (applicants herein) to pay Quatro Security Services' costs, including those of two counsel where so employed, to be taxed at scale B.



J.S. NYATHI

Judge of the High Court

Gauteng Division, Pretoria

Date of hearing: 28/02/2025

Date of Judgment: 05 May 2025

On behalf of the Applicants: Adv. MP Van der Merwe SC

With him: Adv J Eastes

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On behalf of the Defendants: Adv. L Hollander

⁸ See *Wightman t/a JW construction v Headfour (Pty) Ltd and Another* [2008] (3) SA 371

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Delivery: This judgment was handed down electronically by circulation to the parties' legal representatives by email and uploaded on the CaseLines electronic platform. The date for hand-down is deemed to be 05 May 2025.