

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

Case Number: 46591/2021

(1) REPORTABLE: YES / NO
(2) OF INTEREST TO OTHER JUDGES: YES/NO
(3) REVISED: YES/NO

In the matter between:

LIBERTY FIGHTERS NETWORK

First Applicant

(A Voluntary Association without Gain)

REYNO DAWID DE BEER N.O.

(nomine officio as President of Liberty Fighters Network)

Second Applicant

AND

STANDARD BANK OF SOUTH AFRICA LIMITED

First Respondent

LAZARUS SHOMGWE

Second Respondent

NONTSIKELELO FELICIA MVENYA

Third Respondent

[Application for Leave to Intervene]

In Re:

NONTSIKELELO FELICIA MVENYA

Appellant

AND

STANDARD BANK OF SOUTH AFRICA LIMITED

First Respondent

LAZARUS SHOMGWE

Second Respondent

[Application for Leave to Appeal]

JUDGMENT

Van Aswegen AJ

INTRODUCTION:

[1] On or about 12 June 2024, the third respondent instituted an application for leave to appeal the order for summary judgment granted on 7 May 2024 ("Application for Leave to Appeal"). The relief granted was in the following terms:

[1.1] Payment of the sum of R817 461.80, together with Interest thereon at the rate of 11.140% per annum calculated daily and compounded monthly in arrears from 20 September 2017 to date of final payment, both dates inclusive;

[1.2] The immovable property is declared specially executable for the said sum, interest and costs: Erf 3[...] R[...] Township Registration Division I.R., Province of Gauteng, measuring 495 (four hundred and ninety-five) square metres subject to the conditions therein contained also known as: 1[...] H[...] Street, R[...], Gauteng. ("Immovable Property");

[1.3] The Registrar is authorized and directed to issue a writ of execution against the hypothecated property above in accordance with the terms of this judgment; and

[1.4] A reserve price is set for the sale of the property in an amount of R950 000.00.

[2] On or about 12 June 2024, the Liberty Fighters Network (the "first applicant") and Mr Ryno De Beer ("the second applicant") sought leave to intervene in the Application for Leave to Appeal ("Intervention Application").

[3] In terms of the notice of motion to the Intervention Application, the first and second applicants seek the following relief, *inter alia*:

[3.1] to be admitted as "*intervening parties in all proceedings under case number 46591/2021, in terms of Rule 12 of the Uniform Rules of Court*"; and

[3.2] to be confirmed to act "*in the interests of Ms Mvenya, as their member, interests of the occupiers of the immovable property, which forms part of the court proceedings under case number 46591/2021, and in the interests of the public in accordance with section 38 (c) - (e) of the Constitution of the Republic of South Africa, 1996.*"

[4] The intervention is sought in the interests of the third respondent as their member, the occupants (the third respondent's children who are all majors) of the immovable property and the public at large.

[5] The applicants allege that the third respondent's rights have been infringed – amongst other, her right to access to court, her right to adequate housing, dignity and equality. In this regard reliance is placed upon section 38 of the Constitution of the Republic of South Africa, Act 108 of 1996 which reads:

"Enforcement of rights

38. *Anyone listed in this section has the right to approach a competent court, alleging that a right in the Bill of Rights has been infringed or threatened, and the court may grant appropriate relief, including a declaration of rights. The persons who may approach a court are—*

(c) *anyone acting as a member of, or in the interest of, a group or class of persons;*

(d) *anyone acting in the public interest; and*

(e) *an association acting in the interest of its members.*

[6] The first applicant is described in its Founding Affidavit in the following terms:
“LFN is a well-known voluntary association, referred to as a common law Universitas, specialising in advancing social justice on the grassroots level, operating as a non- governmental organisation with perpetual succession and without an eye on gain, existence separate from its members and ability to own property in its own name with a common cause amongst its members clearly identified in its Constitution and both LFN and I (second applicant) have been credited in local, national and even international media via newspapers, radio and television.”

“LFN has been, and continues to be, involved in various legal proceedings against the Bank on behalf of its members, wherein it has developed a comprehensive body of defences - such as those elaborated infra — against the questionable practices allegedly employed by the Bank. It is on this basis, and this basis alone, that the Applicants contend they hold a direct and substantial interest in the present matter, not only on behalf of our member, but also in the public interest at large.”

[7] The applicants’ direct and substantial interest in this matter is accordingly solely reliant upon, as summarized in the second applicant’s own words:

[7.1] their involvement in litigation against the banks and

[7.2] the development of complete defences against the questionable practices of banks.

[8] Addressing their interests in this matter the applicants voiced the following:
“The Applicants, through this intervention, seek to correct the record and bring clarity to the issue, specifically that securing truly impartial, independent, affordable, and competent legal representation capable of effectively defending a consumer against a banking institution's claim is far from the straightforward process that the legal profession often portrays” (my underlining)

[9] The reason for the intervention is therefore to:

- [9.1] correct the record, bring clarity to the issue;
- [9.2] to question the availability of legal representation.

[10] The greater part of the second applicant's argument concerned legal representation in South Africa and indicated that the interest which he seeks to protect is legal representation. The second applicant indicated that the Supreme Court of Appeal was incorrect in its decision in *Manong v Minister of Public Works* (518/2008) [2009] ZASCA 110 (23 September 2009) pertaining to its findings on the right to legal representation. The appeal court held as follows:

"It would thus be impermissible for a non-professional representative to take any step in the proceedings, including the signing of pleadings, notices or heads of argument (as occurred here), without the requisite leave of the court concerned first having been sought and obtained.

[15] This approach, in my view, is consistent with the right enshrined in s 34 of the Constitution, which provides that everyone has the right to have any dispute that can be resolved by the application of law decided in a fair public hearing before a court, or, where appropriate, another independent and impartial tribunal or forum. Emphasising that the courts have a duty to protect bona fide litigants and the importance of untrammelled access to the courts, the right enshrined in section 34 has variously been described by the Constitutional Court as 'fundamental to a democratic society that cherishes the rule of law', 'of cardinal importance that requires active protection', foundational for 'the stability of an orderly society', and a right that 'ensures the peaceful, regulated and institutionalised mechanisms to resolve disputes, without resorting to self-help' and serves as 'a bulwark against vigilantism, and the chaos and anarchy which it causes'¹

¹ *Beinash and another v Ernst & Young and others* 1999 (2) SA 116 (CC) para 17; *Moise v Greater Germiston Transitional Local Council: Minister of Justice and Constitutional Development Intervening (Women's Legal Centre as Amicus Curiae)* 2001 (4) SA 491 (CC) para 23; *Chief Lesapo v North West Agricultural Bank and another* 2000 (1) SA 409 (CC) para 22; *First National Bank of South Africa Ltd v Land and Agricultural Bank of South Africa and others*; *Sheard v Land and Agricultural Bank of South Africa and another* 2000 (3) SA 626 (CC) para 6.

[11] The rule that a company cannot conduct a case in this court except by the appearance of counsel on its behalf was laid down in *Yates Investments (Pty) Ltd v Commissioner for Inland Revenue*.² This second applicant argued that the rule is outdated as it dates back to the seventeenth century.

[12] The Supreme Court of Appeal in the *Manong* case held the following:

“It has been thought, somewhat cynically I dare say, that the rule is based on some misguided attempt to preserve an unjustified monopoly for legal practitioners. This is not the case. Litigation is based on the adversary system. In determining a dispute, a court is dependent on the way in which the case is presented. Factual admissions or denials are made from time to time and a course of conduct has to be chosen by the litigants. When a corporation instructs an attorney who in turn instructs an advocate the law recognises their authority to bind the corporation for the purpose of litigation. In those circumstances a court need not concern itself about authority. Litigation will become very difficult indeed if a court had to be concerned at every step of proceedings as to the authority of the person conducting the litigation to make binding decisions...”

Thus, apart from the fact that there are usually rules of court that preclude a company from being represented by anyone other than a qualified practitioner, a review of the cases in England, Ireland, Australia, New Zealand and Canada shows that the courts, for pragmatic and policy reasons, have set their face against unqualified persons presenting and conducting cases unless they are doing so on their own behalf. So too in Zimbabwe³ and South Africa...

[7] That a person in the position of Mr Manong has no right, such as counsel and in certain circumstances attorneys have, to address this court on behalf of the appellant is thus well settled.” (my underlining)

² 1956 (1) SA 364A

³ *Lees Import and Export (PVT) Ltd v Zimbabwe Banking Corporation Ltd* 1999 (4) SA 1119 (ZSC).

[13] The second applicant furthermore argued that the Constitutional Court allows informal legal representation by a natural unqualified person. It is however abundantly clear from Part 4 of the Constitutional Court Rules of 2003 relating to the representation of parties that, unless otherwise directed by the Chief Justice, only persons who are entitled to appear in the High Courts may appear on behalf of any party to proceedings of the Court. It will accordingly be advocates and attorneys with right of appearance.

[14] It was abundantly clear from the argument by the second applicant that he not only harbours serious criticism towards the banks but that he believes that they monopolize South African courts. His plight in court was for a unified court system and for natural people like himself to be allowed to legally represent litigants at grassroot level. These services would be rendered for free and without the people describing themselves as advocates or attorneys. The second applicant attempts to circumvent section 33 (1) of the Legal Practice Act 28 of 2014 by stating that he renders legal services not in expectation of any fee, commission, gain or reward and that the Act only regulates the legal profession. He seeks that the legal profession “*open up*”.

[15] It is prudent to emphasize that the third respondent never raised the issue of legal representation during the summary judgment proceedings. To the contrary despite enquiring about whether she sought legal representation she persisted to conduct the matter on her own.

[16] After dismissing the application to allow the second applicant to legally represent the third respondent, the court once again gave the third respondent an opportunity to obtain legal assistance, which she refused.

[17] The crux of this matter is therefore not legal representation. It was never an issue during summary judgment stage or in this matter. The first respondent’s cause of action specifically relates to the breach of a loan agreement secured by a mortgage bond. The parties to the said agreement were the first, second and third respondents. An order was granted in the summary judgment proceedings in terms

of rule 46A, allowing for the executability of the immovable property in the event of failure to reinstate the agreement by paying the arrears.

[18] What is alarming and of the utmost concern to me is that the second applicant explicitly informs the court that the applicants need to become involved in this matter and that if he did not challenge the judgment disallowing him from legally representing laypersons that he would be “*blocked*”. He acknowledged that both applicants have their own respective agendas and that the aforesaid judgment will affect their work. The first respondent had “*pulled*” the applicants into the litigation and this was the applicants only opportunity to set the record straight. Notably nothing is said about the third respondent’s interests. The silence speaks for itself.

[19] I had questioned the second respondent to ascertain whether it was his own or the third respondent’s best interest that he had at heart. The second applicant was evasive and left the court with no answer. I got the distinct and real impression that the said applicant’s motives for intervening were to progress the argument as to legal representation in South Africa by unqualified natural persons rather than pursuing the third respondent’s case and acting in her best interest. This raises serious concerns as there is no accountability.

[20] The second applicant had alleged that the third respondent had difficulty in obtaining legal representation. That notwithstanding “*diligent and repeated attempts*”, the third respondent has been unable to obtain the services of a competent, affordable, and independent legal practitioner to assist her in defending the matter. The silence raised by the evidence in this matter, on the attempts made by the third respondent to procure legal representation and the inability to obtain same declares the direct opposite stance. To the contrary, the third respondent on numerous occasions voiced that she wanted to conduct her own matter.

[21] Despite the judgment handed down denying the second applicant the right to legally represent the third respondent and the court’s explanation thereof to her, the third respondent persisted that she would conduct her own defence with the help of

the second applicant. The third respondent showed a total disinterest in obtaining legal representation as she intended to rely on the second applicant.

[22] The second applicant wants to make out a case for the third respondent's lack of competent and impartial legal representation and that it affected her right to a fair hearing entrenched in our Constitution. The record of this case however reflects the absence of any complaint by the third respondent in respect of legal representation. The Third Respondent indicated that she would proceed on her own placing reliance on her documentation in this matter and the assistance of the second applicant.

[23] The applicants want to create a platform and establish an audience where they can raise their own contentions about legal representation, that the legal representatives in South Africa are ethically or contractually predisposed to protect the banks' interests affecting access to justice and to deal with constitutional challenges. The third respondent's legal interests are left on the wayside and become insignificant in the applicant's greater pursuit of their own incentives. The third respondent as litigant is sacrificed on the altar by parties who have their own hidden agendas.

[24] The applicants also only in reply, raise four points *in limine*. They are the following:

[24.1] the first respondent filed one answering affidavit for two distinct applications;

[24.1.1] the first respondent argued that the single affidavit follows the fact that the intervention and recusal applications were to be heard on the same day. I find that acceptable.

[24.2] the invalidity of the representation judgment;

[24.2.1] Annexure RA1 was not forwarded to me as alleged by the second applicant as my email address is absent - it was to the registrar.

[24.2.2] On 4 April 2025 at 08:07 the second applicant sent an e-mail to me and seven others stating:

"Kindly be advised that our member confirms her understanding that Justice Van Aswegen has been duly informed of her inability to personally attend the

MS Teams hearing at 12h00, and that the Court will proceed to consider the incidental application on an unopposed basis."

[24.2.3] The application had to be dealt with and considered on an unopposed basis and this was done.

[24.3] the first respondent's withdrawal of the rule 28 objections

[24.3.1] the first respondent confirmed that they withdrew the objection and that it was fully opposed.

[24.4] the court provided substantive indications on the court's approach to the intervention and recusal applications.

[24.4.1] it is necessary for a court to regulate its own procedure to deal with matters in the interest of justice and as expeditiously as possible. It is a matter of practicality.

[25] The second applicant indicated that if leave to intervene is granted he would solely rely on the version of the third respondent and that he would confine the arguments to what has been placed before court.⁴ He would rely on his abilities and capabilities to do so.

EVALUATION OF INTERVENTION APPLICATION:

[26] In assessing the applicants' intervention application I am mindful that it is brought under rule 12 of the Uniform Rules of Court. The said rule specifically states:

"12. Intervention of persons as plaintiffs or defendants

Any person entitled to join as a plaintiff or liable to be joined as a defendant in any action may, on notice to all parties, at any stage of the proceedings apply for leave to intervene as a plaintiff or a defendant. The court may upon such application make such order, including any order as to costs, and give such directions as to further procedure in the action as to it may seem meet. (my underlining)

[27] It is clear from the reading of the aforesaid rule that the applicant for leave to intervene must be a person entitled to join as a plaintiff or liable to be joined as a

⁴ Par 31 at 019-23

defendant. The test to be applied in intervention application is whether the person could have been joined as a party. Joinder can further take place as a result of:

- i) convenience or
- ii) on the basis that the party whose joinder is in question has a direct and substantial interest in the subject matter of the proceedings.

[28] A person is entitled to intervene in three sets of circumstances:

[28.1] where the requirements of uniform rules 10(1) and 10(3) are satisfied, in that determination of the intervening party's matter or dispute depends upon substantially the same question of law or fact as arises in the proceedings in which leave is sought to intervene.⁵

[28.1.1] Several defendants may be sued in one action either jointly, jointly and severally, separately or in the alternative, whenever the question arising between them or any of them and the plaintiff or any of the plaintiffs depends upon the determination of substantially the same question of law or fact which, if such defendants were sued separately, would arise in each separate action.

[28.2] where wider considerations of convenience favour intervention;⁶

[28.3] when the intervening party has a direct and substantial interest (legal interest) in the proceedings.⁷ (A legal interest is an interest in the right which is the subject matter of the litigation)⁸

[29] Rule 10(1) contemplates that persons joined in an action should each have a claim under the right to relief of the person proposing to join '*depends upon the determination of substantially the same questions of law of fact which, if separate actions were instituted, would arise on each action.*'⁹

[30] What constitutes determination of substantially the same questions of law of fact?

⁵ 1993(2) SA 737 (Nm) at 741A -F.

⁶ Under the common law several defendants may be joined on the grounds of convenience, equality, the saving of costs and the avoidance of multiplicity of actions.

⁷ 1953(2) SA 151 (O) at 169H

⁸ 2007 (5) SA 391 (SCA) para 9

⁹ 2004 (1) SA 618D at 622C-F.

[31] In *United Watch and Diamond Company (Pty) Ltd v Disa Hotels Ltd*,¹⁰ Corbett J highlighted the fact that the test of a direct and substantial interest in the subject-matter of the action had been regarded as the decisive criterion in applications for intervention.

[32] In the matter *SA Riding for the Disabled Association v Regional Land Claims Commissioner*¹¹ it was held as follows:

"[10] If the applicant shows that it has some right which is affected by the order issued, permission to intervene must be granted. For it is a basic principle of our law that no order should be granted against a party without affording such party a predecision hearing. This is so fundamental that an order is generally taken to be binding only on parties to the litigation.

[11] Once the applicant for intervention shows a direct and substantial interest in the subject matter of the case, the court ought to grant leave to intervene."

[33] In *Minister of Public Works and Others v Kyalami Ridge Environmental Association and Another (Mukhwevho Intervening)*¹², an application was made by one of the Alexandra flood victims — who was offered temporary accommodation at Leeuwkop — for leave to intervene as a party. Chaskalson P noted the applicant's '*direct and substantial interest in the proceedings*' — the test articulated in the caselaw surrounding Rule 12 of the Uniform Rules of Court — and determined that it entitled him to be joined in his own right to the proceedings.

[34] The applicants accordingly had to show the following:

[34.1] that they had an interest in the subject-matter of the proceedings and

[34.2] their rights may be prejudiced by not intervening.

¹⁰ 1972 (4) SA 409 (C)

¹¹ 2017(5) SA 1 (CC) at paras 10 & 11

¹² 2001 (3) SA 1151 (CC), 2001 (7) BCLR 652 (CC)

[35] The applicants allege that their legal interest arises from their involvement with litigation against banks and that they *"have developed a comprehensive body of defences against the questionable practices employed by the Bank."*¹³

[36] The applicants can not join as parties to the action because they are not part of the loan agreement secured by a mortgage bond. The breach concerns a private law right. They can accordingly not have an interest in the subject matter of the litigation.

[37] The prejudice which the applicants want to rely upon also does not stem from the breach of the loan agreement, but flows from the judgment refusing the second applicant from legally representing the third respondent. I accordingly find that the applicants failed to establish any prejudice flowing from the subject matter.

[38] The applicants' intervention application is premised upon the third respondent's alleged lack of access to legal representation and the right to a fair hearing, as contemplated in section 34 of the Constitution of the Republic of South Africa.

[39] In *Lawyers for Human Rights*, Yacoob J noted that *"the issue is always whether a person or organisation acts genuinely in the public interest"*.

"A distinction must however be made between the subjective position of the person or organisation claiming to act in the public interest on the one hand, and whether it is, objectively speaking, in the public interest for the particular proceedings to be brought. It is ordinarily not in the public interest for proceedings to be brought in the abstract. But this is not an invariable principle. There may be circumstances in which it will be in the public interest to bring proceedings even if there is no live case."

[40] The real concern which the applicants want to address is the reform of legal representation relating to indigent people. The subject matter underlying this matter and its evidence do not allow for the legal representation challenge. The Legal Aid

¹³ 019-17 par 12

South Africa Act, Act 39 of 2014 is applicable when an issue is identified pertaining to legal representation and any complaints can be addressed to the Legal Aid South Africa. If the applicants are unsatisfied with section 25 of the Legal Practice Act 28 of 2014 defining the right of appearance of legal practitioners and candidate attorneys, they can challenge it in an appropriate forum.

[41] The applicants further raise the effect of the summary judgment order on the third respondent's right to adequate housing. The requirements of rule 46A were considered during judgment stage and a reserve price was set at *R950 000.00* to protect the third respondent's interest.

[42] Throughout the intervention application the applicants rely upon various constitutional rights and their infringement. These infringements were never raised and canvassed at summary judgment stage. If the third respondent had raised any constitutional issues rule 16A is more applicable.

[43] Rule 16A reads:

“16A. Submissions by an amicus curiae

(1)(a) Any person raising a constitutional issue in an application or action shall give notice thereof to the registrar at the time of filing the relevant affidavit or pleading.

(b) Such notice shall contain a clear and succinct description of the constitutional issue concerned.

(c) The registrar shall, upon receipt of such notice, forthwith place it on a notice board designated for that purpose.

(d) The notice shall be stamped by the registrar to indicate the date upon which it was placed on the notice board and shall remain on the notice board for a period of 20 days.

(2) Subject to the provisions of national legislation enacted in accordance with section 171 of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996), and these Rules, any interested party in a constitutional issue raised

in proceedings before a court may, with the written consent of all the parties to the proceedings, given not later than 20 days after the filing of the affidavit or pleading in which the constitutional issue was first raised, be admitted therein as amicus curiae upon such terms and conditions as may be agreed upon in writing by the parties.”

[44] In the absence of the rule 16A notice one is left to question the genuineness of the intervention application.

[45] Rule 16A was introduced to remedy the void in the law with an acknowledgement that “*constitutional cases often have consequences which go far beyond the parties concerned.*”¹⁴ The role to be played by *amici* as envisioned in the Uniform Rules is closely linked to the protection of the constitutional values and rights enshrined in the Bill of Rights. This is shown in Rule 16A (2) which describes an amicus as an “*interested party in a constitutional issue raised in proceedings*”. The Court in *Children’s Institute v Presiding Officer of the Children’s Court District of Krugersdorp and Others CCT 69/12* held that Rule 16A specifically intended to assist amici in their role of promoting and protecting the public interest.

[45.1] The difference between an intervening party and *amicus curiae* is that the intervening party joins as a party to the proceedings whilst the amicus curiae does not become a party.

[46] It is abundantly clear that the applicants raised several constitutional issues and want a court to deal with the common law in respect of legal representation by natural unqualified persons and what the second applicant labels as wrong judgments by the Appeal court. A Rule16A notice would have been more appropriate than an intervention application. These constitutional issues were not raised in the summary judgment proceedings and did not form part of the factual matrix which the court had to consider. The issues raised by the applicants solely serve the applicants’ causes and not those of the third respondent. The only party who is

¹⁴ *Children’s Institute v Presiding Officer of the Children’s Court District of Krugersdorp and Others CCT 69/12 [2012] ZACC 25*

prejudiced is the third respondent whilst the applicants cannot be held accountable as they are not regulated by any specific statutory or other regulatory body.

[47] The first respondent's counsel reasoned, and I agree with counsel, that the second and third respondents and the occupants of the immovable property are not vulnerable members of society. The third respondent is an assistant-nurse whilst the occupants' economic status was not advanced (the occupants are 27 and 31 years old respectively).

[48] The applicants' arguments pertaining to reform in respect of legal representation for vulnerable members of society are not applicable in the matter before court as the third respondent had never raised legal representation as a concern. The applicants want an opportunity to voice their disapproval of legal representation in South Africa and to argue that representation should not only be limited to legal practitioners in terms of the Legal Practice Act but should also include unqualified natural persons. These arguments do not arise and align with the facts presented during summary judgment stage. It is not the subject matter between the first –and third respondents and cannot be entertained. The applicants' cause for intervention is ill-founded.

[49] The applicants seeking leave to intervene had to establish *prima facie* proof of the interest and the right to intervene.

[50] As alluded to here in before the applicants' direct and substantial interests in this matter is described by themselves in the following words:

“LFN has been, and continues to be, involved in various legal proceedings against the Bank on behalf of its members, wherein it has developed a comprehensive body of defences - such as those elaborated infra — against the questionable practices allegedly employed by the Bank. It is on this basis, and this basis alone, that the Applicants contend they hold a direct and substantial interest in the present matter, not only on behalf of our member, but also in the public interest at large.”

[51] The involvement of the applicants in numerous legal proceedings against the bank and the development of a comprehensive body of defences against the alleged questionable practices employed by the bank are not tantamount to a direct and substantial interests in this matter. Their interest should have resulted from the breach of the loan agreement and secured by a mortgage bond. This interest does not exist as the applicants were never a party to the agreement. I am of the firm opinion that the applicants do not have a legal interest in the third respondent's matter. The applicants can accordingly, in terms of rule 12, never be joined as parties to the litigation between the first – and third respondents. The test to be applied in intervention applications namely whether a person could have been joined as a party to the litigation, must fail in the matter before me.

[52] The intervention application must furthermore be seriously made and not be frivolous.¹⁵ The second applicant argued that they must intervene because of the judgment, rejecting the second applicant from legally representing the third respondent as a natural person, which “*blocked*” them. If they didn't challenge the proceedings the applicants remain ‘*blocked*’. The second applicant furthermore acknowledged that the applicants had their own agendas. He indicated that the judgment affected their work. He also indicated that the first respondent “*pulled*” them into the application, and it was: “*our only chance to set the record straight.*” An intervention application does not serve that purpose.

[53] The intervention application is, accordingly, having regard to the absence of a direct and substantial interest not seriously and genuinely made in the third respondent's best interest, but with ulterior motives, namely the furtherance of the applicants' own objectives.

[54] The first respondent argued that the cause of action is dependent on a breach of the loan agreement between the respondents and that the breach does not affect third parties. The applicants can clearly not show a direct and substantial interest in the breach of the loan agreement, and they can also not be joined as parties to the

¹⁵ 1991 1 SA 677 (Tk) at 679A.

litigation in terms of rule 12. The absence of these two requirements for intervention is fatal to the applicants' application.

CONCLUSION:

[55] Having regard to the above it is clear that the applicants failed to prove and establish a direct and substantial interest in the matter before me. The applicants' agendas are clearly to further their own objectives. They specifically want to deal with the judgment disallowing the second applicant from legally representing the third respondent a natural person. It is clearly not pursuing the third respondent's best interest and in conflict therewith.

[56] The intervention application cannot succeed.

[57] The way in which the applicants conducted themselves in this matter is to be criticized. The applicants acted contrary to the best interests of the third respondent in actively pursuing their own agendas. They therefore created a conflict of interests which is inconceivable with a fair hearing. The second applicant had launched three interlocutory applications. The first application was to allow him (not legally trained) to legally represent the third respondent in the court. The second applicant has knowledge of the fact that he would not have been allowed to legally represent a natural person (being unqualified as a legal practitioner) hence his reference to the *Manong* Supreme Court of Appeal case *supra*. Yet, the applicants persisted with launching the application incidental to the leave to appeal, to seek the court's approval in respect of his representation of the third respondent. The intervention application is the second application to be launched followed by a recusal application. The applicants launched these applications mounting the legal costs of the third respondent. The applicants are circumventing the LPC Act to further their own objectives at the third respondent's costs without any accountability to a statutory body. This intervention application is also to circumvent my judgment disallowing the second applicant to legally represent the third respondent. The application is insincere and improper.

[58] In conclusion, I make the following order:

Order

[58.1] The intervention application is dismissed with costs.

S VAN ASWEGEN
ACTING JUDGE OF THE HIGH COURT
JOHANNESBURG

For the Applicants: The second applicant in person

For the First Respondent: Adv Nkosi instructed by SBM ATTORNEYS

For the Third Respondent: In person