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

CASE NO: 2022-018083

(1) REPORTABLE: NO
(2) OF INTEREST TO OTHER JUDGES: NO
(3) REVISED:
07 JULY 2025

In the matter between:

NORVENA PROPERTY CONSORTIUM (PTY) LTD

Applicant

and

MASHAMBA, THIFHELIBILU PATSON

First Respondent

**THE OCCUPIERS OF UNIT NUMBER F[...],
N[...], C[...], STAND 5004, C[...],
STREET AND P[...], N[...], STREET, HILLBROW**

Second Respondent

**CITY OF JOHANNESBURG METROPOLITAN
MUNICIPALITY**

Third Respondent

REASONS

MAHOMED J

INTRODUCTION

[1] The applicant applied for eviction of the respondent; it is common cause that the applicant complied with section 4 (2) of the Prevention of Illegal Evictions Act. The matter appeared on my opposed roll and the proof of service of set down is on file¹

[2] The respondent appeared on the day without her legal representative and informed the court that although he has been assisting her all along for the past five years, it was only on the day before the hearing that he informed her that he was no longer available to represent her. She contended that she did not know the reasons and requested a postponement of the matter to be allowed to engage the services of another attorney. Counsel for the applicant directed me to proof of service of a draft joint practice note dated 27 January 2025, calling upon the attorney to peruse and sign off, only the applicant has signed the current practise note, clearly it failed to obtain any cooperation from the respondent's legal representatives for the matter on my opposed roll in February 2025. The respondent has failed to file heads of argument.

[3] The respondent was duly sworn in and informed the court that she did not know, inter alia, what the case was about, although she was represented by her attorney, she informed me that she appeared in court on this matter for the first time, after her attorney told her that the matter was on the roll. She denied she owed any arrear rentals and in fact *"asked the court as to how it is that she continues to return to live in her home, if she was indeed in arrears with her rental and the applicant was telling the truth."* Counsel for the applicant informed the court that the matter was in court on two occasions previously, when he represented the applicant and confirmed that on both occasions, the respondent was present with her attorney and argued that it is improbable that she does not know what the matter is about. The evidence is that there have been several applications for postponement, in the past.

¹ CL16-5

[4] The evidence is that the respondent occupies a home on property that is identified for low cost housing, and it is common cause that the lease agreement between the parties is cancelled, after the respondent fell into arrears with her rental payments. The respondent is in arrears in the amount of R205 888, 48, in June 2022 at commencement of the proceedings she owed R86 000, which increased as applicant continues to live on the property. Having heard her denial on an arrears amount owing, it was clear to me that she did in fact know what the matter was about, it was not denied that she was in court with her attorney on two previous occasions, and she offered no explanation in regard to her attempts to find alternate housing, she maintained she did not know what the matter was about. I reminded the respondent of the Oath she had taken and its implications, her submission in her answering affidavit² confirms she has full knowledge of this matter. I am of the view that the respondent was further delaying the finalisation of the matter, and “refused” to take the court into her confidence. The arrears amount is substantial and in my view the respondent has been afforded several opportunities by the court to have her say. The matter was previously postponed for the filing of answering papers, which although filed, do not disclose a defense. She has not presented me with a defense, she was cognisant of the arrears escalating, with added interest, and knew she was in unlawful occupation of the premises.

[5] The court has a legal obligation to protect the rights of both parties in this matter. Having weighed the evidence of both parties, the applicant has satisfied me that the order for eviction is justified and having considered the respondent’s attitude to the court process and the substance of her matter, it was just and equitable to order her eviction. I heard counsel for the applicant and agreed it was just and equitable that she be ordered to vacate the property within three months of my order.³ The respondent was provided with an amount in arrears and the date of eviction, by counsel for the applicant.

Mahomed J
JUDGE OF THE HIGH COURT

² CL 11-5 par 6

³ 2003 (1) SA 113 SCA par 123F- 124A, 2021 ZASCA 100 para 27

JOHANNESBURG

MAHOMED J

Date of Hearing: 11 February 2025

Appearances:

For applicants: Adv C E Thompson instructed by
Richen Attorneys

For Respondent: Self representation