



**IN THE HIGH COURT OF SOUTH AFRICA
FREE STATE DIVISION, BLOEMFONTEIN**

Not Reportable

Case no: 4073/2023

In the matter between:

FREE STATE WHEELS (PTY) LTD
[Reg. No: 2022/647862/07]

Applicant

and

GRANNY LILY RATSELANE N.O.
[In her representative capacity as trustee for the time and
being of the Ratselane Familie Trust, IT844/04(B)]

1st Respondent

MOLEFI ISAAC RATSELANE N.O.
[In his representative capacity as trustee for the time and
being of the Ratselane Family Trust, IT844/04(B)]

2nd Respondent

GRANNY LILY RATSELANE

3rd Respondent

MOLEFI ISAAC RATSELANE

4th Respondent

**ANY OTHER UNLAWFUL OCCUPIERS OF SECTIONAL
TITLE UNIT 2 AND 3, SS KOEDOE STREET 174, SCHEME
NUMBER AND YEAR 34/2014**

5th Respondent

MANGAUNG METROPOLITAN MUNICIPALITY

6th Respondent

Neutral citation: *Free State Wheels (Pty) Ltd v GL Ratselane N.O. and Others*
(4073/2023) [2025] ZAFSHC 216 (15 July 2025)

Coram: Van Zyl J
Heard: 30 January 2025
Delivered: 15 July 2025

Summary: Application for eviction in terms of the Prevention of Illegal Eviction from and Unlawful Occupation of Land Act, 19 of 1998. Appointment of *amicus curiae* on behalf of opposing respondents.

ORDER

1 The Chairperson of the Free State Society of Advocates, Adv N Snellenburg SC, is requested and appointed to act as *amicus curiae* on behalf of the first to fifth respondents in the present application.

2 The aforesaid request and appointment is subject to the *proviso* that Adv Snellenburg may, without further leave of the Court, request junior counsel to assist him and/or to act in his stead.

3 The application is postponed to a date to be agreed upon between the parties, subject to the dates referred to in paragraph 4, *infra*.

4 The time periods for leave to file supplementary affidavits (if any) granted by Daffue, J on 21 November 2024, are extended as follows:

4.1 Leave is granted to the first to fifth respondents to file a supplementary answering affidavit and/or a counter application, if any, on or before 5 August 2025; and

4.2 Should the first to fifth respondents file any of the papers referred to in paragraph 4.1, *supra*, leave is granted to the applicant to respond thereto in terms of the Court Rules, whereafter the further proceedings are also to follow in terms of the Court Rules.

5 Supplementary heads of argument on behalf of the applicant and heads of argument on behalf of the first to fifth respondents, irrespective of whether further papers are filed or not, are to be filed in terms of the Rules of Practice.

6 The costs occasioned by the postponement stand over for later adjudication.

7 The Registrar is to forthwith serve a copy of this order on the secretary of Adv Snellenburg, marked for the urgent attention of Adv Snellenburg, at the e-mail address melissa@law.co.za.

8 The fourth respondent is ordered to forthwith, on behalf of the respondents, make contact with the aforesaid secretary of Adv Snellenburg in order to make arrangements for the urgent implementation of this order.

JUDGMENT

Van Zyl J

[1] On 10 August 2023 an order authorising the institution of these proceedings in terms of section 4(1) of Prevention of Illegal Eviction from and Unlawful Occupation of Land Act, 19 of 1998 ('PIE'), was issued.

[2] The part of the application which is currently serving before me is that the first to fifth respondents be declared to be unlawful occupiers of the property situated at Sectional Title Unit 2 & 3, 174 Koedoe Street, Fauna, Bloemfontein ('the property'), and be ordered to vacate the property.

[3] The first to fifth respondents are opposing the application and I will refer to them jointly as "the respondents".

[4] Without dealing with the factual issues and making any finding in regard thereto, in terms of the answering affidavit the fourth respondent and three of his grandchildren, two of whom are still minors, reside at the property as their primary residence.

[5] The present application has served before Court on a number of occasions and has been postponed on those occasions. I do not propose to deal with all the postponements.

[6] However, from a perusal of the file, it is evident that although the respondents were initially legally represented, their attorney of record withdrew on 21 September 2023. A new attorney of record was appointed on or about 4 October 2023. On 5 October 2023, the application was postponed to the opposed roll of 18 January 2024, with certain rulings regarding the filing of papers. The respondents answering affidavit

was filed on 25 October 2023. On 18 January 2024 the application was postponed to 22 February 2024. The respondents' second attorney of record then withdrew on 23 January 2024. The application was thereafter postponed during dates which the fourth respondent appeared in person on behalf of the respondents, indicating that he applied to the Legal Aid Board for legal representation. The said application was unsuccessful and the respondents appealed the said decision of the Legal Aid Board. That appeal, however, was also unsuccessful.

[7] Eventually, on 21 November 2024, the matter served before Daffue, J, during which appearance the fourth respondent again appeared in person. Daffue, J granted an order **by agreement between the parties** in terms whereof the application was postponed to 30 January 2025, with leave to the respondents to file a supplementary answering affidavit, leave to the applicant to file a supplementary replying affidavit and further determinations regarding the filing of the parties' respective heads of argument. It is evident from the said order that at that stage the fourth respondent indicated that he had instructed a new attorney to represent the respondents.

[8] On 30 January 2025 when the application served before me, the fourth respondent again appeared in person on behalf of the respondents. The applicant duly filed heads of argument and Mr Van Aswegen appeared on behalf of the applicant. No heads of argument had been filed on behalf of the respondents. The fourth respondent indicated that he has been unable to obtain the services of a new attorney of record on behalf of the respondents. Mr Van Aswegen indicated that it was his instruction to continue with the application and he addressed me on the merits of the application. Thereafter the fourth respondent attempted to also address me on the merits of the application on behalf of the respondents. I reserved judgment.

[9] The right to adequate housing is entrenched in section 26 of the Constitution:

‘(1) Everyone has the right to have access to adequate housing.

(2) The state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of this right.

(3) No one may be evicted from their home, or have their home demolished, without an order of court made after considering all the relevant circumstances. No legislation may permit arbitrary evictions.’

[20] The purpose of and the Preamble to PIE are indicative thereof that the Act is to protect the aforesaid constitutional right to adequate housing.

[21] Without dealing with the merits of the application, it suffices to state that the application deals with intrinsic legal principles which are set against the backdrop of an unusual set of facts. The fourth respondent, as a layperson with regard to the law, was and is in no position to properly represent the respondents in the application. The Court has also up to now been without the advantage of full legal argument on the relevant legal issues on behalf of **all** parties (with no detracting from the competent argument presented by Mr Van Aswegen).

[22] In addition it is evident that the respondents have *bona fide* been attempting their level best to secure legal representation, but without success.

[23] The parties previously **agreed** that further papers be filed and Daffue, J included it in a court order. In my view it is evident from the papers that additional issues need to be addressed. As previously mentioned, as of yet no heads of argument have even been filed on behalf of the respondents.

Conclusion

[24] When taking all of the facts and circumstances into consideration, I deem it in the interest of justice that an *amicus curiae* appointment be made, which *amicus curiae* is to act on behalf of the first to fifth respondents, and that an order regarding the filing of further papers also be made.

Order

[25] The following order is made:

1 The Chairperson of the Free State Society of Advocates, Adv N Snellenburg SC, is requested and appointed to act as *amicus curiae* on behalf of the first to fifth respondents in the present application.

2 The aforesaid request and appointment is subject to the *proviso* that Adv Snellenburg may, without further leave of the Court, request junior counsel to assist him and/or to act in his stead.

3 The application is postponed to a date to be agreed upon between the parties, subject to the dates referred to in paragraph 4, *infra*.

4 The time periods for leave to file supplementary affidavits (if any) granted by Daffue, J on 21 November 2024, are extended as follows:

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4.2 Should the first to fifth respondents file any of the papers referred to in paragraph 4.1, *supra*, leave is granted to the applicant to respond thereto in terms of the Court Rules, whereafter the further proceedings are also to follow in terms of the Court Rules.

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7 The Registrar is to forthwith serve a copy of this order on the secretary of Adv Snellenburg, marked for the urgent attention of Adv Snellenburg, at the e-mail address melissa@law.co.za.

8 The fourth respondent is ordered to forthwith, on behalf of the respondents, make contact with the aforesaid secretary of Adv Snellenburg in order to make arrangements for the urgent implementation of this order.

VAN ZYL J

Appearances:

For the Applicant: Adv WA van Aswegen
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