

REPUBLIC OF SOUTH AFRICA


 IN THE HIGH COURT OF SOUTH AFRICA
 GAUTENG DIVISION, JOHANNESBURG

(1)	REPORTABLE: YES / NO
(2)	OF INTEREST TO OTHER JUDGES: YES/NO
(3)	REVISED
 SIGNATURE 22/08/2025 DATE	

CASE NUMBER: 2022-029290

In the matter between:

MICHAEL EDWARD COYLE

First Applicant

MARIE ANN COYLE

Second Applicant

and

CLASSIC COMFORT CONSTRUCTION (PTY) LTD

First Respondent

PETER JOHN TROSKIE

Second Respondent

GAVIN BYRNE

Third Respondent

UMHLABATHI ENGINEERING CC

Fourth Respondent

BYRNE HOPE JONES PROPERTIES CC

Fifth Respondent

GARETH AHIER

Sixth Respondent

*In re:***MICHAEL EDWARD COYLE**

First Plaintiff

MARIE ANN COYLE

Second Plaintiff

and

CLASSIC COMFORT CONSTRUCTION (PTY) LTD

First Defendant

PETER JOHN TROSKIE

Second Defendant

GAVIN BYRNE

Third Defendant

UMHLABATHI ENGINEERING CC

Fourth Defendant

BYRNE HOPE JONES PROPERTIES CC

Fifth Defendant

Heard: 23 July 2025

Delivered: 22 August 2025

JUDGMENT

YACOOB, J:

[1] The applicants, Mr and Ms Coyle, to whom I refer collectively as "the Coyles", seek leave to appeal my judgment dismissing their application for an order staying arbitration proceedings between themselves and the first respondent ("Classic Comfort"), pending the determination of action proceedings that they have instituted against the first to fifth respondents. Only the first and second respondents participate in these proceedings and I refer to them collectively as "the respondents".

[2] The factual background is set out in detail in my judgment which the Coyles seek to appeal and I do not repeat it here.

[3] The application for leave to appeal filed on the Coyles' behalf contained a number of grounds not clearly articulated or consistent with the contents of the judgment. At the hearing of the application for leave, many of these grounds were abandoned.

[4] Mr Nel submitted that the crux of the application was that it will be more convenient for all parties for arbitration to be stayed, and that the court had incorrectly exercised its discretion. However, I cannot see that another court would find that it has been demonstrated that staying the arbitration would be convenient for all parties. In addition, this was not a ground articulated in the application for leave.

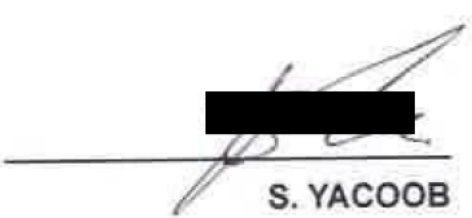
[5] I do not find any of the so-called grounds raised by the applicants persuasive. The bulk of them take issue with the manner in which I articulated a summary of the facts, for example, that I found that the building agreement was cancelled because the "snag list" had not been dealt with, whereas the applicants' claim is that it was cancelled as a result of substantial defects. However the very letter of demand referred to by the Coyles in support of this ground refers to the defects as those set out in the attached "snag list" and calls for the defects to be dealt with failing which the contract will be cancelled. It is clear that there is no merit in the ground and, as do most of the grounds contained in the application, amounts merely to splitting hairs.

[6] I do not propose to deal with each of the grounds individually, partly for the reason that they are in the main baseless in the same way. As pointed out in the respondents' written argument on leave to appeal, none of the grounds in the application for leave challenges the core findings underpinning the judgment.

[7] Nor is there any basis proffered for a finding that the court's discretion was exercised capriciously or on a wrong principle. In those circumstances I cannot find that another court may come to a different conclusion.

[8] In addition, as pointed out by the respondents, the decision does not determine the Coyle's substantive rights in any way. It is not final in effect in that sense. It is therefore not appealable. It was submitted by Mr Nel that the judgment is final as it finally determines the application to stay. That is not the test. The question is whether any of the substantive rights are determined and they clearly are not.

[9] I am satisfied that the decision is not appealable, and at, even if it was, no basis has been established on which I can find that leave ought to be granted to appeal.


S. YACOOB
JUDGE OF THE HIGH COURT
GAUTENG DIVISION, JOHANNESBURG

Delivered: This judgment was prepared and authored by the Judge whose name is reflected and is handed down electronically by circulation to the Parties/their legal representatives by email and by uploading it to the electronic file of this matter on CaseLines. The date for hand-down is deemed to be 22 August 2025.

APPEARANCES

For the applicants:	G Nel SC
Instructed by:	Anthony Berlowitz Attorneys
For the respondent:	MJ Cooke
Instructed by:	Tiefenthaler Attorneys Inc