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IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, JOHANNESBURG

CASE NO: 005076/2023

DATE: 02-09-2025

(1) **REPORTABLE:** NO.

(2) **OF INTEREST TO OTHER JUDGES:** / NO.

(3) **REVISED.**

DATE 2 September 2025

In the matter between

SIBANYE GOLD (PTY) LTD

Applicant

and

THANDOLEWTHU BELE

First Respondent

UNLAWFUL OCCUPIERS
OF 1[...] I[...] DRIVE

Second Respondents

MERAFONG CITY LOCAL
MUNICIPALITY

Third Respondent

JUDGMENT *EX TEMPORE*

WILSON, J: The applicant, Sibanye, owns a property at 1[...] I[...]

Drive, C[...]. The first respondent, Mr Bele, resides there with individuals, cited collectively as the second respondents: the unknown unlawful occupiers of Erf 2[...], 1[...] I[...] Drive, C[...]. The third respondent is the Merafong City Local Municipality. Sibanye applies to evict the first and second respondents from the property. Mr. Bele has filed a responding affidavit in which he says that he would be rendered homeless by an eviction, and that there are other people resident at the property who would be in the same situation.

The municipality has filed a report in which it confirms that Mr. Bele lives at the property with a son and a daughter. However, it is clear from the report the municipality has not actually visited the property and is unable to say who the second respondents, the further unlawful occupiers of the property, are. It may, of course, be that there are no further unlawful occupiers of the property, but I do not know that on these papers, and the municipality is unable to tell me. The fact that further occupiers have been cited and the fact that Mr Bele says they exist creates a probability that there are such occupiers. If there are such occupiers, the court needs to be informed of their circumstances. This has not been done. That is the first reason why an eviction order cannot be granted today.

The second reason an eviction order cannot be granted today is that Mr Bele has himself been allocated a house in terms of what was once known as the Reconstruction and Development Programme, and is now known as the Project-linked Subsidy Programme. That house has not yet been fully constructed. A representative of the municipality, a Mr Lemmy Jofile, attended court and confirmed that the property allocated to Mr Bele is not yet fully constructed. I am grateful to Mr Jofile coming to court to confirm that and for the further assistance that he has provided.

A court will not make an eviction order – especially one that might lead to homelessness – unless it is fully apprised of all the relevant circumstances. As I have said, information relating to two relevant circumstances is missing in this case. The first piece of information is when Mr Bele’s allocated property will be ready for his occupation. The second is what other unlawful occupiers, if any, are present on the property and what their circumstances are.

It seems to me to be a straightforward matter to resolve both of these queries. All that need happen is, first, that the municipality file a further report under oath setting out a date by which Mr Bele’s subsidised home will be made available to him. Secondly, somebody from the municipality needs to go to 1[...] I[...] Drive and investigate the circumstances applicable to any further occupiers.

There was a faint suggestion on the papers, and again in court before me, that the occupiers are dangerous and cannot be approached. No primary facts have been placed on record from which that inference could be drawn, and a court will be slow to accept such an allegation made in a vacuum. It is not appropriate, in my view, for courts to enlist themselves in the unfortunate stereotyping that sometimes takes place in eviction proceedings in which unlawful occupiers who live together on a property are characterised as inherently dangerous and aggressive. Unless there are primary facts from which that inference can be drawn, any such allegation ought, in my view, to be rejected.

It is finally necessary to mention this. In the answering affidavit it was originally contended that because Mr. Bele is apparently registered as a director of various companies, he is not at risk of homelessness. I do not think that being a registered director of a company automatically leads to the inference that an

individual would not be rendered homeless on eviction, although it is something that ought properly to be contextualised and addressed in any consideration of their housing need. In this case, though, the necessity to contextualise and address that allegation has fallen away, because the municipality has allocated a project-linked subsidy to Mr Bele. Mr. Bele would not receive such a subsidy unless he was poor enough to qualify for it and was at least at some risk of homelessness on his eviction from the property.

It seems to me, then, to be common cause that in this case an eviction would probably lead to homelessness without the provision of alternative accommodation, and that it is necessary to investigate the extent to which the eviction might lead to homelessness, and whose homelessness it would lead to. For those reasons, and because of the factual lacunae I have identified on the papers, I am going to postpone the application *sine die* and direct the municipality to file a further report dealing with the two issues that I have set out. The municipality would be well-advised when this matter comes back to court to brief attorneys and counsel who are capable of making meaningful submissions to the court on all of the issues that I have raised in my judgment. I would be slow, as any court would, to place an individual civil servant on the spot in circumstances such as this – notwithstanding that Mr. Jofile has been of some assistance.

For all those reasons, I make the following order:

1. The application is postponed *sine die*.
2. The third respondent, Merafong City Local Municipality, is directed within 10 days of service of this judgment upon it, to file a further report under oath from an appropriately empowered official setting out at least the following:
 - 2.1 the number of people living on the property which is the subject of this application;

2.2 the extent to which an eviction from the property would lead to the homelessness of any individual person currently residing there;

2.3 the date on which a municipal official visited the property to establish the facts set out in 2.1 and 2.2 above, and what they did to establish those facts;

2.4 the state of readiness of the housing allocated to the first respondent, Mr Bele, who can be accommodated with him there, and when they can be accommodated;

2.5 any other matter which is in the opinion of the municipality appropriate to bring to the court's attention.

3. The applicant and the first and second respondents may deliver an affidavit in response to the municipal report required in paragraph 2 above by no later than 10 days after they receive it.

4. The question of costs is reserved.

WILSON, J
JUDGE OF THE HIGH COURT
2 September 2025