

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

CASE NUMBER: 2023-010243

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

DATE: 26/9/2025

In the matter between: -

TS

Applicant

and

WRS

Respondent

J U D G M E N T

DELIVERED: This judgment was handed down electronically by circulation to the parties' legal representatives by e-mail and publication on CaseLines. The date and time for hand-down is deemed to be _____ on 26 September 2025.

F. BEZUIDENHOUT AJ:

INTRODUCTION

[1] The applicant, the mother of two minor girls aged 12 and 11 years

respectively, applied for leave to relocate permanently to the Netherlands. The minor children have valid Dutch passports and are citizens of the Netherlands.

- [2] The respondent (father) opposed the relocation on the basis that the decision to relocate was unilateral, it is not *bona fide* and reasonable and there is no structured plan in place to facilitate his continued contact with the children.
- [3] By agreement between the parties, educational psychologist, Dr Tania Holz ("Dr Holz") was appointed and mandated to conduct a full investigation and to furnish a report to the court regarding the best interests of the minor children and whether or not it is in their best interests to permanently relocate with the applicant to the Netherlands and whether the respondent would be entitled to increased rights of contact with the minor children.
- [4] On the 5th of June 2024, Dr Holz published her report, which included her findings and recommendations. Dr Holz found it not to be in the children's best interests to permanently relocate to the Netherlands, and recommended increased contact between father and children.

ISSUES FOR DETERMINATION

- [5] The issue to be decided is whether it would be in the best interests of the children to permanently relocate with their mother to the Netherlands despite the recommendations of Dr Holz and if so, what contact arrangements between the respondent and the children would be in their

best interests.

SALIENT FACTS

- [6] The applicant and the respondent were previously married to each other and were divorced on the 24th of February 2017 by a decree of divorce issued by this Court, incorporating a written agreement of settlement entered into between the parties.
- [7] On the 31st of May 2019 the parties amended the agreement of settlement in respect of issues pertaining to maintenance.
- [8] In terms of the agreement of settlement, the parties remained co-holders of full parental responsibilities and rights with the children, with primary residence vesting with the applicant and reasonable rights of contact afforded to the respondent. The contact was not defined.
- [9] In terms of maintenance, the respondent agreed to make payment of R3 400.00 per month per child, with an annual escalation, and to reimburse the applicant 50% of the children's monthly medical aid premiums and medical excesses. The respondent further undertook to pay half of all private crèche, nursery school and school fees, extramural, sporting, cultural and academic activities and half of all fees, books and equipment relating to the children's tertiary education at any university, college, art, computer or secretarial school.
- [10] The varied agreement of settlement provided for, *inter alia*: -

- 10.1 The payment of R3 000.00 for both children;
 - 10.2 Medical aid contributions to remain in force;
 - 10.3 The payment by the respondent of R3 695.48 towards school fees;
 - 10.4 After school activities for both children to be paid by the applicant;
 - 10.5 The respondent to pay 50% of the children's school uniforms and for the payment of any extraordinary costs in respect of the children;
 - 10.6 The respondent would no longer be responsible for payment of the children's swimming lessons.
- [11] The respondent further agreed to incur no further debt whatsoever and he undertook to not spend his monthly income recklessly.
- [12] For approximately 18 months after the divorce order was granted, the respondent exercised contact with the minor children as follows: -
- 12.1 In week 1 by collecting the children after school on Friday and returning them to school, alternatively to the applicant's care, on the immediately succeeding Monday;
 - 12.2 In week 2 by collecting the children on a Monday after school and returning them to school, alternatively to the applicant's care, the

following morning;

12.3 For half the duration of every long school holiday;

12.4 Every alternate short school holiday.

[13] Subsequently, the applicant married her current husband and in July 2022 the respondent requested increased contact with the children.

[14] In or about July 2021 the respondent relocated to Pretoria and has resided there ever since, with the applicant, her husband and the children living in Johannesburg. The respondent's relocation impacted on the children's contact with the respondent as he now lives approximately 41 km away from the children's school.

[15] The applicant has raised a number of concerns regarding the children's welfare when the respondent exercises contact with them. This of course is denied by the respondent.

THE APPLICANT'S CASE

[16] On the 14th of October 2022 the applicant instructed her legal representatives to address a letter to the respondent informing him of some of her concerns regarding the well-being of the children and her intention to permanently relocate to the Netherlands. The respondent was informed that the applicant had travelled to the Netherlands to investigate the country and the respondent was provided with some initial and preliminary information regarding the Netherlands and the applicant's

intention to relocate there.

[17] The applicant also suggested to the respondent that they jointly agree to appoint, and equally bear the costs, of a suitable psychologist to conduct a forensic assessment of the children's circumstances and provide recommendations regarding the best interests of the children, the structure of parental rights and responsibilities going forward and whether it would be in their interests to accompany the applicant permanently to the Netherlands.

[18] The respondent instructed his legal representatives to respond on the 21st of October 2022. The respondent declined his consent for a relocation with reasons to follow later.

[19] On the 4th of November 2022 the respondent, via his legal representatives, premised the respondent's objection to a relocation on *inter alia* the following: -

19.1 The applicant conducted herself in an impulsive manner with regard to the intended relocation;

19.2 The applicant disregarded the best interests of the minor children in proposing an intended relocation;

19.3 The applicant's proposal was entirely dismissive of the respondent as the father of the minor children and the acknowledgement of a very special bond between father and daughters;

19.4 Should the applicant insist on a forensic assessment to be conducted, the respondent would require that it includes the respondent's request for increased contact with the children.

[20] A letter in reply was addressed by the applicant's attorneys calling upon the respondent to reconsider the issues and reminding him that it was he who had initially told the applicant to relocate the minor children from South Africa and to the Netherlands during 2021.

[21] Subsequently, due to no consensus reached between the parties, the applicant instituted the present proceedings. She initially brought the application by way of a part A and a part B, part A dealing with the appointment of a psychologist to conduct a forensic assessment.

[22] The respondent opposed the application and filed a notice of counter-application calling upon the Family Advocate to conduct an investigation regarding the best interests of the children and the applicant's intended relocation to the Netherlands. The counter-application further sought the appointment of an independent psychologist to conduct a full investigation and to furnish a report to the Court regarding the best interests of the children regarding the issue of relocation and whether or not the respondent's contact with them ought to be increased.

[23] Ultimately, the parties agreed to the appointment of Dr Holz, which appointment was not made an order of Court in order to save costs.

[24] In the founding papers the applicant raised certain concerns regarding the political circumstances and the safety issues prevailing in South Africa.

She recorded concern regarding service delivery, declining infrastructure throughout the country, the unabated electricity and loadshedding crises and the declining value of the Rand. She also informed the Court that the minor children have been exposed to a break-in which occurred on 18 March 2018, an attempted kidnapping on 22 August 2022 and two further attempted break-ins during October 2022 and November 2022.

[25] The applicant states that although the respondent is obliged to contribute towards the maintenance of the children in accordance with the varied agreement of settlement, he has failed to comply with his maintenance obligations and has accumulated arrears of approximately R272 796.54.

[26] As a consequence of his failure to fulfil his maintenance obligations, the applicant has had to try and cater for the minor children's maintenance needs, including but not limited to their educational and medical expenses, without adequate contributions from the respondent. The applicant stated that she is unable to financially sustain herself and the children in South Africa without receiving maintenance from the respondent, but that if they were to relocate to the Netherlands, she would be able to financially look after herself and the children.

[27] The applicant mentioned a number of factors which would increase the quality of life the children would experience in the Netherlands and she also dealt with the living arrangements in the Netherlands submitting they would live in a family friendly area in the Netherlands called Harlem, which is easily accessible by public transport, but is also bicycle friendly. There are many parks and recreational activities and beaches that are

close by. There is also a well-developed international community and well-established support groups for expats.

[28] The applicant states that her and her husband have friends and family in the Netherlands and that she would like to build on those relationships and form new ones. The applicant mentioned the family and friends by name.

[29] As far as education is concerned, the applicant informed the Court that the children's private school expenses in South Africa are high and the cost has been exacerbated because of the respondent's failure to meaningfully contribute. On the contrary, the Dutch Government funds primary, secondary, vocational and higher education in the Netherlands and as Dutch citizens, the minor children would be entitled to receive a high standard of education at no cost.

[30] The applicant listed specific schools which she has identified as appropriate for the children and in order to bridge the gap between English and Dutch, the applicant indicated that the children would be required to attend a "*taalschool*" initially.

[31] As far as medical cover is concerned, in the Netherlands it is a requirement that all members of the public must take out and retain appropriate health insurance. The applicant fully researched the options available to her and the children which is commensurate to the cost of medical aid offerings of a similar level in South Africa.

[32] The applicant is presently employed as Chief Executive Officer of a public

company bearing the family name, which has focussed more on its efforts in its European market and operations which are currently situated in Rotterdam, the Netherlands. It is the intention of the company that the applicant's relocation would fulfil the purpose of helping grow the company's business internationally and specifically in Europe. The applicant will hence transfer to the Netherlands division of the company and earn sufficient income to maintain herself and the children. Also, her relocation costs will be financed, wholly or in part, by the company and its European division.

[33] The applicant has provided intricate detail regarding the cost of living in the Netherlands for the purpose of proving that her monthly income would be more than adequate to her and the children's daily maintenance needs.

[34] As far as contact with the children is concerned, the applicant proposes that the respondent would be entitled to exercise contact with the children in accordance with a draft order uploaded onto CaseLines. The contact includes contact with the children in South Africa, as well as in the Netherlands and reasonable and unfettered daily electronic contact.

RESPONDENT'S OPPOSITION

[35] The respondent states that he has established a strong relationship with the children and that if the applicant relocated to the Netherlands, it would not continue.

[36] The respondent states that the applicant has failed to appreciate that there is no denying that the strong bond and attachment exists between

him and the children. Hence he states that it is inconceivable that a move to the Netherlands would not render this bond and attachment vulnerable to rupture.

[37] The respondent complains that the applicant has repeatedly frustrated the process of communication between him and the children and although he has requested increased contact with the children since July 2022, these requests have fallen on deaf ears.

[38] A loving relationship between a father and his children, according to the respondent, cannot endure in the same way when he would only be afforded around 21 days out of 365 days of contact.

[39] Accordingly, the respondent contends that it would be to the detriment of the children to relocate to the Netherlands as he, as a father, would be unable to attend their extramural and sporting activities for which he has always been present to encourage them, to be a shoulder to cry on when times are tough, to teach them all the things a father is privileged to teach them face-to-face, and enjoying the biweekly weekend activities of braaiing, weekends away with family which they have strong bonds with, going to movies together, camping, dog day outings, hiking and some of the more simple things like playing cards, Monopoly, indoor days or watching movies or cooking together, to name a few.

THE FINDINGS AND RECOMMENDATIONS BY DR HOLZ

[40] I have considered the full extent and reasoning of Dr Holz's report and recommendations. For purposes of this application and the order I intend

to make, it is instructive to extract some of the salient points of Dr Holz's findings: -

- 40.1 Regarding parenting, Dr Holz states that it is clear that the applicant and the respondent both deeply love their children and care about them and their emotional, social and scholastic wellbeing. While within the family dynamics there appears to be an alliance between the respondent and the minor KS and the applicant and the minor MS, both children are equally and securely attached to their parents;
- 40.2 KS and MS further have what they appear to perceive as a healthy relationship with their parents' partners;
- 40.3 The children have experienced ongoing physical and academic challenges, kidney reflux, sensory integration issues and academic challenges on the one hand and levels of anxiety and a tendency to perfectionism on the other. There also appears to be high levels of sibling rivalry between them;
- 40.4 The current parental acrimony has resulted in both children experiencing what appears to be internal chaos and confusion in terms of how to psychologically navigate current escalating co-parental acrimony and conflict;
- 40.5 The applicant does not appear to have comprehensively considered the financial implications of the respondent's contact with the children should she relocate with the children;

- 40.6 The applicant does not appear to have considered the impact on the children of not having regular contact with their father and not being in close proximity to him;
- 40.7 What flows from the investigation is that if the children permanently relocate to the Netherlands with the applicant, their relationship with the respondent will be significantly compromised. As the children are young, their attachment to the respondent is vulnerable to being ruptured should they not have the opportunity to continue strengthening their ongoing attachment to him;
- 40.8 The children greatly benefit from the nurturing and maternal care which they receive from the applicant, while much of their identity and moral compass is strongly linked to the respondent's approach to them;
- 40.9 A positive father-child and father-adolescent relationship supports healthy self-esteem, healthy sociability, levels of confidence, self-control and identity development;
- 40.10 A primary factor central to the best interests of children is in protecting the relationship between the children and both parents.

[41] Dr Holz recommended, *inter alia*, that the applicant and the respondent attend individual psychotherapy to assist them in coping with current stressors. Furthermore, parent guidance sessions for both parents would

assist them in maintaining and adopting a co-parenting style which maintains consistency, predictability and which upholds the best interests of the children. Dr Holz opines that parent guidance sessions can help parents evaluate and investigate their co-parenting style regarding efforts to gain a clearer and deeper understanding of the children and how to address any behavioural issues which may present. Due to what Dr Holz calls an irreparable breakdown in the co-parenting relationship, the appointment of a parenting coordinator is recommended.

[42] The applicant rejected Dr Holz's recommendations, for reasons dealt with in the affidavits filed of record and in the heads of argument, whilst the respondent accepted them.

APPLICABLE LEGAL PRINCIPLES

[43] Sections 18(3)(c)(iii) and 18(5) of the Children's Act, 38 of 2005 provide that the consent of all the persons that have guardianship of a child is necessary in respect of the child's removal from the Republic. However, section 18(5) also makes express provisions that a competent Court may order otherwise.

[44] Our Courts have repeatedly laid down the principles governing when a Court should grant a relocation order.

[45] The principles applicable to relocations are helpfully summarised by Satchwell J in *B v M*:¹ -

¹ [2006] 3 All SA 109 (W).

- "(a) *The interests of children are the first and paramount consideration.*
- (b) *Each case is to be decided on its own particular facts.*
- (c) *Both parents have a joint primary responsibility for raising the child and where the parents are separated, the child has the right and the parents the responsibility to ensure that contact is maintained.*
- (d) *Where a custodial parent wishes to emigrate, a court will not likely refuse leave for the children to be taken out of the country if the decision of the custodial parent is shown to be bona fide and reasonable.*
- (e) *The courts have always been sensitive to the situation of the parent who is to remain behind. The degree of such sensitivity and the role it plays in determining the best interests of children remain a vexed question."*

[46] The legal principles applicable in relocation cases have also been set out by the Supreme Court of Appeal ("SCA") in the majority judgment of Scott JA in *Jackson*:² -

"It is trite that in matters of this kind the interests of children are the first and paramount consideration... but what must be stressed is that each case must be decided on its own particular facts. No two cases are precisely the same and, while past decisions based on other facts may provide useful guidance, they do no more than that. By the same token, care should be taken not to elevate to rules of law the dicta of judges made in the context of the peculiar facts and circumstances with which they were concerned."

² *Jackson v Jackson* 2002 (2) SA 303 (SCA), paragraph [2] at 318E-I.

[47] In deciding whether or not relocation will be in a child's best interest, the court must carefully evaluate, weigh and balance a myriad of competing factors, including the child's wishes in appropriate cases.³

[48] In *Cunningham v Pretorius*⁴, Murphy J held that in deciding relocation disputes:

"What is required is that the court acquires an overall impression and brings a fair mind to the facts set up by the parties. The relevant facts, opinions and circumstances must be assessed in a balanced fashion and the court must render a finding of mixed fact and opinion, in the final analysis a structured value-judgment, about what it considers will be in the best interest of the child."

[49] The approach ultimately amounts to a judicial investigation.

[50] The importance of the best interests of the child in all matters concerning children was articulated by Sachs J in *S v M*⁵ as follows:

*"A truly principled child-centred approach requires a close and individualised examination of **the precise real-life situation of the particular child involved**. To apply a pre-determined formula for the sake of certainty, irrespective of the circumstances, would in fact be contrary to the best interests of the child concerned.*

³ *Van Rooyen v Van Rooyen* 1999 (4) SA 435 (C).

⁴ 2008 JDR 1022 (T) par 9; see also *UR v SB* 2024 JDR 0238 (GJ) par [18].

⁵ 2007 (2) SACR 539 (CC) para 24 B-C.

"What unites these principles, and lies at the heart of section 28⁶, I believe, is **the right of a child to be a child and enjoy special care.**

...

"Every child has his or her own dignity. If a child is to be constitutionally imagined as an individual with a distinctive personality, and not merely as a miniature adult waiting to reach full size, **he or she cannot be treated as a mere extension of his or her parents, umbilically destined to sink or swim with them.** The unusually comprehensive and emancipatory character of Section 28 presupposes that **in our new dispensation the sins and traumas of fathers and mothers should not be visited on their children.**" (emphasis added)

[51] In *Van Rooyen v Van Rooyen*⁷ the court said the following:

"Turning to the application for relocation, two preliminary issues arise. The first relates to the approach of the court in matters of this nature. It is that there is no onus in the conventional sense. The court will evaluate, weigh and balance the many considerations and competing factors which are relevant to the decision whether the proposed change to the children's circumstances is in their best interest. The court will make an assessment on the particular children, in other words, it will apply individual justice in the sense that all the relevant factors, even the mother's fundamental

⁶ The Constitution 108 of 1996 s 28(1) "A child's best interests are of paramount importance in every matter concerning the child".

⁷ 1999 (4) SA 435 (C).

right to freedom of movement, will be assessed in the context of these children's best interest."

[52] Most importantly when applying the best interests standard in relocation disputes the critical determination is whether:⁸

52.1 such relocation is reasonable, genuine, *bona fide* and in the best interests of the children;

52.2 the decision to relocate includes practical and other considerations;

52.3 the relocating parent has engaged with and properly thought through the real advantages and disadvantages to the children of the proposed move.

[53] In *Shawzin*⁹ the court acknowledged the fact that the children leaving the Republic would cause a break in the close contact which they had with their father who must remain behind. However, the court referred to the following compensation: -

"... The bond between them and their father will not be broken. He will have them every year for a long holiday of six weeks and he is in a position, financially, to see them in Canada at other times... To take them away from their mother who has looked after them since their birth, would obviously have serious psychological consequences. They are still of an age when they would call for their mother first if something were to happen to them. A stepmother, with her own children, even if willing and able to look

⁸ H.M.F v M.G.W.F 2006 (3) SA 42 (SCA) (1 December 2005).

⁹ *Shawzin v Laufer* 1968 (4) SA 657 (A).

after them, as is the case here, cannot, generally speaking, match the devotion of a natural mother."¹⁰

[54] In *F v F*¹¹ the SCA found that in deciding whether or not relocation would be in a child's best interests, the court has to evaluate, weigh and balance a myriad of competing factors, including the child's wishes in appropriate cases.¹² The court went on to state that despite the constitutional commitment to equality, the division of parenting roles in South Africa remains largely gender-based. It is still predominantly women who care for children and that reality appears to be reflected in many custody arrangements upon divorce. Therefore, the refusal of relocation applications has a potentially disproportionate impact on women, restricting their mobility and subverting their interests and the personal choices that they make to those of their children and former spouses.¹³

[55] When it comes to expert evidence, when an expert makes recommendations without providing the proper factual and scientific basis for such investigation and the recommendations flowing from such recommendations, the expert fails in his/her duty towards the court.¹⁴ It is the expert's obligation to ensure that the findings and recommendations are based on sound, logical and scientifically based reasoning.¹⁵

¹⁰ At 669A – D.

¹¹ 2006 (3) SA 42 (SCA).

¹² Paragraph [10] at 48C.

¹³ Elsje Bonthuys, *Clean Breaks: Custody, access and parents' rights to relocate* (2000) 16 SAJHR 487.

¹⁴ *Schneider N.O and Others v AA and Another* 2010 (5) SA 203 (WCC) at 211J – 212B.

¹⁵ Southwood's Essential Judicial Reasoning in Practice and Procedure and the Assessment of Evidence (Lexis Nexis) at 7 - 8

[56] The grounds upon which the opinion is based are not relevant only to admissibility, but are of special importance in the evaluation of the opinion.¹⁶

[57] An expert witness should remain objective, despite the fact that he/she is called by a party to testify in support of the latter's case. The principle was adopted by South African Courts in the matter of *Stock*¹⁷ and recently reaffirmed by the SCA in the matter of *Jacobs*.¹⁸ The SCA had to consider how to approach conflicting expert opinions. At paragraph [15] the Court noted as follows: -

"It is well-established that an expert is required to assist the Court, not the party for whom he/she testifies. Objectivity is the central prerequisite for his/her opinions. In assessing an expert's credibility an appellate court can test his/her underlying reasoning and is in no worse position than the trial court in that respect. Diemont JA put it thus in Stock v Stock:

'An expert... must be made to understand that he is there to assist the court. If he is to be helpful he must be neutral. The evidence of such a witness is of little value where he, or she, is partisan and consistently asserts the cause of the party who calls him. I may add that when it comes to assessing the credibility of such a witness, this court can test his reasoning and is accordingly to that extent in as good a position as the trial court was'."

[58] The duty of an expert witness is to provide independent assistance to the

¹⁶ *S v Williams en Andere* 1985 (1) SA 750 (C).

¹⁷ *Stock v Stock* 1981 (3) SA 1280 (AD).

¹⁸ *Jacobs and Another v Transnet Ltd t/a Metrorail and Another* 2015 (1) SA 139 (SCA).

Court through their objective, unbiased opinion about matters within their expertise. This duty is owed to the Court and overrides any duty to anyone who is instructing or paying the expert.

[59] It has been held in the matter of *Schneider*¹⁹ that an expert comes to Court to give the Court the benefit of his/her expertise. Turning to the responsibilities of an expert witness, the Court found that he/she must provide *"the court with as objective and unbiased opinion, based on his or her expertise... An expert is not a hired gun who dispenses his or her expertise for the purposes of a particular case, nor does he or she assume the role of an advocate"*.

[60] Within the context of this matter and the objection raised by the applicant to the findings and recommendation of especially Mr Carr, it deserves reminding that experts are not there for the parties, but for the Court. Kotzé J put it as follows in *S v Gouws*:²⁰

"The prime function of an expert seems to me to be to guide the court to a correct decision on questions found within his specialised field."

[61] Davis J summarised the role of experts and their reports aptly in *Schreiner NO & Others v AA & Another*²¹ as follows:

"In short, an expert comes to court to give the court the benefit of his or her expertise."

¹⁹ *Schneider N.O. and Others v Aspeling and Another* [2010] 3 All SA 332 (WCC).

²⁰ 1967 (4) SA 527 (EC) at 528D.

²¹ 2010 (5) SA 203 (WCC) at 211J-212B.

[62] *In RAF v Kerridge*²² Nicholls JA explained the role of the court when faced with expert evidence:

*'The role of experts in matters such as these and the opinions they provide can only be as reliable as the facts on which they rely for this information... The facts upon which the experts rely can only be determined by the judicial officer concerned. **An expert cannot usurp the function of the judicial officer who is not permitted to abdicate this responsibility -the court should actively evaluate the evidence.** Ideally, expert evidence should be independent and should be presented for the benefit of the court.'*(emphasis added)

DELIBERATION

[63] Relocation by its very nature implies a significant decrease in contact between the child and the non-relocating parent.

[64] A relocation issue contrasts the relocating parent's reasonable wish to better their circumstances by moving against the non-relocating parent's reasonable desire to maintain frequent normal and essential contact with the children.

[65] It is common cause that the children have a very established and strong relationship with both parents. The respondent has always had reasonable contact with the children since the parties separated nine years ago and has never not had any contact. His first request for extended contact was

²² 2019 (2) SA 233 (SCA) par [50].

in July 2022, approximately five years after the decree of divorce was granted.

[66] It is further common cause according to Dr Holz and according to the parties that both the respondent and the applicant are good parents and that the children are equally attached to both of them. Why this close bond and attachment cannot continue should the children relocate with their mother to the Netherlands, is not clear from Dr Holz's findings.

[67] The applicant has considered the impact of the children relocating on the respondent's contact. Extended daily video contact, travels to South Africa with the children at her cost and travelling by the respondent to the Netherlands at her cost. The applicant also doesn't expect the respondent to contribute further towards the maintenance of the children.

[68] The conclusion made by Dr Holz that should the children relocate, their relationship with the respondent will be compromised because they are young is also not borne out by the report, bearing in mind that the children are not toddlers – they are 12 and 11 years old respectively.

[69] The applicant accepts that the influence of a father is important to the children. His allegations of parental alienation and frustration of contact are not borne out by the Dr Holz report. Furthermore, there is no evidence that the relocation will result in the respondent's influence being negatively impacted on.

[70] The applicant has accepted that the parental acrimony has resulted in the children experiencing confusion, in internal chaos and conflict and hence

proposes the involvement of Dr Mathilda Smit.

[71] Ultimately, it is so that an expert is not a trier of fact. However, the report seems to elevate the information and version given to her by the respondent as a fact. There is simply no evidence for this conclusion. When one considers the world view which both of the children share, which include the parties, their respective partners and related members as mentioned, the report states that even the children appreciate the irrational fear which the respondent holds in this regard.

[72] Although Dr Holz does canvas how the children feel about relocation, the report is unhelpful in that it fails to weigh up the myriad of other factors that need to be considered for relocation. Dr Holz seems to have overemphasized the impact that a relocation would have on the contact between father and daughters. This is inevitable in any relocation.

[73] In my view, Dr Holz also seems to have underplayed the applicant's role as the children's primary caregiver, and the opportunity presented to her to progress and grow and secure financial prosperity for her business and for the children, which would ultimately provide them with a comfortable lifestyle and the broadening of their horizons.

[74] The Dr Holz report is silent on the factual evidence advanced by the applicant, which speaks in favour of a relocation, such as being exposed to an excellent education system as well as the reduction in stress levels when living in a crime-free environment.

[75] As far as maintenance contributions are concerned, Dr Holz did not

mention that the respondent will not be required to pay maintenance, should the children relocate, and that the applicant has waived the arrear maintenance owing by him. Dr Holz has also not made enquiries regarding the applicant's income package and how it would be beneficial to the children.

[76] Ultimately, Dr Holz has not expressed any concerns as to the Netherlands or suggested that the children will not cope in adapting to the Dutch lifestyle. There is nothing in the report to suggest that the children will not adapt easily and will not thrive psychologically and emotionally and easily. Therefore, although the report by Dr Holz has been helpful to this Court, the recommendation against relocation is not supported by the facts and findings.

[77] In the circumstances, I am satisfied that the applicant has carefully considered the ramifications of the move and has done everything possible to ensure that the move will not be contrary to the children's interests and will not result in the relationship between father and children being negated. In my view, the contact tendered by the applicant to the respondent will ameliorate the inevitable decrease in contact between the child and the non-relocating respondent. Accordingly I find that the relocation of the children with the applicant to the Netherlands would be in their best interests.

COSTS

[78] It is trite that I have a discretion insofar as the ordering of costs is

concerned, which discretion I am to exercise judicially. The respondent, although initially represented by attorneys, appeared in person at the hearing. On a conspectus of the reasons for the opposition, and the fact that the recommendations by Dr Holz did not favour a relocation and increased the respondent's contact, I do not find that the opposition was unreasonable. Accordingly, I am disinclined to apply the ordinary principle that costs follow the result.

ORDER

I accordingly grant an order in the following terms: -

1. The applicant is granted leave to remove the minor children, KVS and MBS, permanently from the jurisdiction of this court for permanent relocation and residence in the Netherlands within three months of the grant of this order.
2. The respondent's consent, signature or participation in regard to any steps required to remove the minor children from the Republic of South Africa to the Netherlands are dispensed with.
3. The respondent is entitled to exercise contact with the minor children whilst the applicant and the children reside in the Netherlands, subject to the children's religious, educational, social, health and recreational activities, as follows: -
 - 3.1. Reasonable unfettered daily electronic contact which will include video contact;
 - 3.2. Half of the duration of the stay of the minor children in South Africa

in and during the summer holiday when the minor children will travel to South Africa with the applicant, who will be responsible for the attendant return airline tickets for the children;

- 3.3. The applicant shall pay for a return air ticket for the respondent to the Netherlands for the duration of one school holiday annually. The respondent's accommodation in the vicinity of the applicant and the children shall be for his own account. The respondent shall inform the applicant no later than 3 (three) months in advance of his decision to visit the children in the Netherlands so that flights may be secured on his behalf by the applicant;
- 3.4. The respondent shall be entitled to travel to the Netherlands during the other school holidays, be it during the Autumn/Christmas/Spring or May holidays for the duration of the holiday to visit the children at his own expense. The respondent shall notify the applicant of his intention to do so at least 2 (two) months in advance in order that arrangements can be made to facilitate this contact.
4. Pending relocation, the respondent shall have the following contact with the minor children: -
 - 4.1. On alternate weeks from a Friday afternoon when the respondent will collect the children from the S[...] C[...], G[...] at 17:00 and will return the children on Tuesday morning;
 - 4.2. On alternate weeks on a Monday evening when the respondent can collect the children from S[...] C[...], G[...] at 17:00 and return them to school on a Tuesday morning;

- 4.3. One half of each long holiday agreed to between the applicant and the respondent;
- 4.4. Every alternate short school holiday;
- 4.5. Every alternate public holiday, provided that the respondent shall collect the children at 09:00 and return them to the applicant's care at 17:00;
- 4.6. All reasonable telephone contact with the minor children between 17:30 to 18:30 when the respondent can contact either of the children on their cell phones.
5. The applicant and the respondent shall attend individual psychotherapy to assist them in coping with current stresses before and after the relocation.
6. The applicant and the respondent shall attend parent guidance sessions to assist them in maintaining and adopting a co-parenting style which maintains consistency, predictability and which upholds the best interests of the children and would assist them further in evaluating and investigating their co-parenting style regarding efforts in gaining a clearer and deeper understanding of the children and how to address any behavioural issues which may present.
7. A senior health practitioner of at least 10 years' experience shall be agreed upon by the applicant and the respondent and appointed as parent coordinator. In the event that they are unable to agree on a particular individual to fulfil this purpose, then the chairperson of the Gauteng Family Law Forum, will be requested to nominate a suitable parent coordinator.

8. The parent coordinator should serve to mediate, manage and monitor any potential unhealthy parenting or disputes that may occur between the applicant and the respondent. The parent coordinator should assist with any changes to the contact schedule to ensure that the changes serve the children's best interests. The applicant and the respondent should cooperate with the parent coordinator as the parent coordinator is in a position to assist them in understanding the children's developmental and individual needs.
9. The parent coordinator will, while focussing on the children's best interests, be responsible for: -
 - 9.1. assisting with the preparation and implementation of a parenting plan and contact schedule;
 - 9.2. monitoring compliance with the parenting plan;
 - 9.3. assisting with quick assessment and resolution of parental disputes and conflict;
 - 9.4. assisting the parents with communication and problem solving in the best interests of the children;
 - 9.5. assisting in educating parents about the children's developmental and psychological needs;
 - 9.6. assisting that parents not engage in parental alienation of any kind;
 - 9.7. receiving feedback from the parents' treating psychologists;
 - 9.8. contacting the psychologist appointed to engage the parents in parental guidance in order to provide the parenting coordinator with

appropriate feedback when such is considered in the children's best interests.

10. The costs of the parent coordinator shall be paid by the parties in equal shares.
11. Each party shall pay his/her own costs.

F BEZUIDENHOUT

**ACTING JUDGE OF
THE HIGH COURT**

DATE OF HEARING: 30 April 2025

DATE OF JUDGMENT: 26 September 2025

APPEARANCES:

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