

REPUBLIC OF SOUTH AFRICA



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

CASE NO: 2024/051135

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


SIGNATURE

DATE 17 November 2025

In the matter between:

TSELISO RAINBOW MOSIA	Applicant
and	
PULANE GRACE MOLELLE	First Respondent
NONKANGALA CATHERINE MSIBI	Second Respondent
REGISTRAR OF DEEDS, JOHANNESBURG	Third Respondent
THE CITY OF JOHANNESBURG METROPOLITAN MUNICIPALITY	Fourth Respondent

JUDGMENT

This judgment is handed down electronically by circulation to the parties' legal representatives by email and by being uploaded to CaseLines. The date and time for hand down is deemed to be 17 November 2025.

MAHON AJ:

Introduction

[1] This matter concerns an application for the cancellation of a title deed in respect of an immovable property situated in Orange Farm. The applicant contends that he is the rightful owner of the property by virtue of what he describes as an allocation made to him by the City of Johannesburg and evidenced, in his view, by certain documents annexed to his founding affidavit. He alleges further that the subsequent transfer of the property, first from the municipality to the first respondent and thereafter from the first respondent to the second respondent, was procured through fraud and the use of forged documents. On this basis he seeks, among other forms of relief, a declaration that both transfers are null and void, together with an order restoring the property to what he describes as its original status.

[2] The first respondent, who is said to have been the immediate transferee from the municipality, has taken no active part in the proceedings. The second respondent, the current registered owner, opposes the application and denies all allegations of impropriety. The City of Johannesburg, cited as the fourth respondent, has filed no papers and has offered no explanation for the transfers impugned by the applicant.

- [3] The matter was set down for hearing on the opposed motion roll. When it was called, the second respondent sought a postponement from the bar on the basis that new attorneys had been appointed the previous day and required time to prepare. The request was advanced without an affidavit and without any attempt to explain the two-month period during which the respondents were unrepresented following the withdrawal of their erstwhile attorneys. The application for a postponement was dismissed for reasons given during the hearing.
- [4] What then remained was the substantive application, which turns on whether the applicant has placed before the Court a proper factual and legal foundation for the relief sought. Central to this inquiry is whether the documents on which the applicant relies confer, or are capable of conferring, any cognisable real right to the property; whether the allegations of fraud are supported by admissible facts; and whether the applicant has established a legal basis for setting aside a duly registered transfer of land in circumstances where he has never appeared in the chain of title.

Factual Background and Chronology

- [5] The property in dispute is a residential stand situated in Orange Farm. It was, at all relevant times prior to the impugned transfers, owned by the City of Johannesburg Metropolitan Municipality. The applicant contends that the municipality allocated the property to him. In support of this contention he relies on three documents: a document he describes as a permit issued in his favour (annexure TRM2); a set of building plans approved by the municipality which,

he says, could only have been sought pursuant to an allocation (annexure TRM3); and a document headed “Call-in Notice” (annexure TRM1) issued under the municipality’s letterhead requesting that the first respondent attend its offices in relation to the property.

- [6] The applicant states that he erected structures on the property in the belief that he had been allocated it. He alleges that the first respondent, together with her mother, thereafter procured transfer of the property into the first respondent’s name without his knowledge or consent. The details of the transaction between the municipality and the first respondent are not disclosed on the papers. The applicant did not witness any of the events he describes as fraudulent; rather, he infers impropriety only from the fact that the property was transferred to the first respondent instead of to him.
- [7] Following the transfer into her name, the first respondent concluded a sale of the property to the second respondent. The second respondent’s version is that she purchased the property lawfully and for value. A deeds office search (annexure TRM5) reflects only two owners in the property’s history: first, the City of Johannesburg; and thereafter, the second respondent. The applicant has never appeared in the deeds registry records as owner.
- [8] The applicant maintains that the first respondent’s failure to attend at the municipality in response to the call-in notice prevented an inquiry into the circumstances of the transfer. He contends that had she attended, the municipality would have been able to clarify how the property was transferred and on what basis. The municipality has not provided any explanation for the

transfer, nor has it confirmed whether an allocation was ever made to the applicant.

- [9] In these circumstances the applicant seeks relief premised on the assertion that he should have been the transferee of the property and that the transfers to the first and second respondents took place irregularly or unlawfully.

Analysis

Ownership and the Nature of the Rights Asserted

- [10] The principal foundation of the applicant's case is the assertion that he is, or ought to be regarded as, the owner of the property. Ownership of immovable property in South African law is acquired through registration in the deeds registry. The deeds search placed before the Court shows that the only registered owners in the property's history are the City of Johannesburg and, subsequently, the second respondent. The applicant has never appeared in the chain of title. Unless the applicant can demonstrate a legal right that entitles him to demand transfer of the property into his name, he cannot impugn the title of the second respondent.

- [11] The applicant relies on three documents in support of his claim to ownership: a document described as a permit (TRM2), a set of building plans (TRM3), and a call-in notice (TRM1). The permit does not identify the statutory or regulatory framework in terms of which it was issued; nor does it state that it confers a right of occupation, let alone ownership. It is silent as to its legal effect. The building plans merely reflect the municipality's approval of construction on the property; this does not, without more, vest a real right in the applicant. The call-in notice

is no more than an administrative request issued to the first respondent inviting her to attend the municipality's offices. It does not purport to allocate the property or to create rights in favour of the applicant.

[12] Even assuming in the applicant's favour that an allocation of some kind occurred, an allocation of land by a municipality, without more, does not confer a real right. At best, it may give rise to a personal right against the municipality to be considered for transfer if and when the municipality elects to dispose of the land. A personal right of this kind is not enforceable against third parties and does not in itself entitle the holder to demand cancellation of a registered transfer to someone else. The applicant's papers do not identify any statute, policy, proclamation, or administrative scheme that would elevate an allocation or a permit of the kind relied upon to a real right capable of defeating the title of a later registered owner.

[13] The absence of a statutory or contractual foundation that links the documents relied upon to a transferable real right is fatal to the claim of ownership.

The Allegations of Fraud

[14] The applicant alleges that the transfer of the property from the municipality to the first respondent was effected through fraud and the use of forged documents. These allegations, however, are made without factual support. The applicant does not claim to have witnessed any of the conduct complained of. The founding affidavit does not identify the documents said to have been forged, the nature of the purported forgery, or the respects in which the municipality is alleged to have been deceived.

- [15] The inference of fraud is drawn solely from the fact that the municipality transferred the property to the first respondent rather than to the applicant. Inferences cannot substitute for facts, and an inference of fraud is permissible only where it is the most reasonable inference from the facts. The possibility that the municipality, fully apprised of its own allocation processes and internal records, took a decision to transfer the property to the first respondent for reasons unknown to the applicant is not excluded by the papers. The City of Johannesburg has been served and has elected not to participate in these proceedings. Its silence does not advance the applicant's case; nor can it be treated as evidence that the transfer was effected unlawfully or without its knowledge.
- [16] Accusations of fraud are serious and must be supported by clear and particularised facts. The applicant's allegations fall significantly short of what is required. In the absence of any factual foundation, there is no basis upon which a court may set aside a duly registered transfer in the deeds registry.
- [17] Because the applicant never acquired ownership, and because he has not established that he holds a real right enforceable against third parties, he lacks the necessary standing to challenge the transfer of the property to the first and second respondents. A litigant cannot obtain the cancellation of a registered title deed unless he demonstrates a legal right that is infringed by the continued existence of that deed. On the papers, the applicant has not established such a right.

Competence of the Relief Sought

- [18] The principal relief sought is a declaration that the transfers to the first and second respondents are null and void. This relief presupposes that the applicant should have been the transferee and that the municipality acted unlawfully in transferring the property elsewhere. For the reasons already given, that assumption cannot be sustained.
- [19] The alternative relief sought is that the property be restored to the municipality, which must then conduct an inquiry to determine the rightful owner. There is no legal basis for such an order. The applicant does not identify a statute that empowers a court to compel a municipality to conduct an inquiry of this nature, nor is there any indication that the municipality seeks the return of the property. Courts do not compel public bodies to take ownership of property against their will.
- [20] A further difficulty arises from the fact that the first respondent, whose attendance at the municipality is said to be essential for the proposed inquiry, is not under any legal obligation to attend such a meeting. A court order directing her to do so would amount to compelling attendance at an administrative proceeding for which no statutory or common law authority has been identified.
- [21] The relief sought is therefore not competent and cannot be granted.

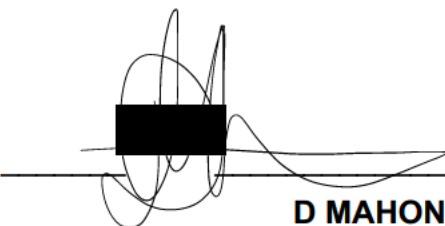
Conclusion on the Merits

- [22] The applicant has not established that he is the owner of the property, nor that he holds any real right entitling him to the cancellation of the transfers in question. The allegations of fraud are unsubstantiated and rest on conjecture

rather than fact. The relief sought, both in its primary and alternative forms, is not competent. The application must accordingly fail on the merits.

[23] In the circumstances, the following order is made:

1. The application is dismissed with costs.



D MAHON
Acting Judge of the High Court
Johannesburg

Date of hearing: 14 August 2025

Date of judgment: 17 November 2025

APPEARANCES:

For the Applicant: Mr Sekgatja

Instructed by: Radasi Sekgatja Attorneys

For the 2nd Respondent: Mr Ntonyela

(Instructing attorney not identified and no notice of appointment on record)