

**REPUBLIC OF SOUTH AFRICA**  
**IN THE HIGH COURT OF SOUTH AFRICA**  
**GAUTENG DIVISION, PRETORIA**

**CASE NO: 2025 - 192701**

(1) REPORTABLE: NO

(2) OF INTEREST TO OTHER JUDGES: NO

(3) REVISED: NO

**DATE 17/11/2025**

**MOKOSE SNI**

In the matter between:

ETIENNE BEDEKER N.O.

First Applicant

WOLFGANG HACK

Second Applicant

(Identity Number: 5[...])

and

UTOPIA PLACE (PTY) LIMITED

First Respondent

(Registration Number: 1995/011755/07)

JOHAN LAURENS SCHNEIDER

Second Respondent

(Identity Number: 5[...])

LIZELLE SCHNEIDER

Third Respondent

(Identity Number: 7[...])

LEON WENTZEL

Fourth Respondent

(Identity Number: 6[...])

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## REASONS

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MOKOSE J

### **Introduction**

[1] On 30 October 2025 I issued an order dismissing the application in respect of the above matter with costs. The order states further that reasons would follow. These are the reasons for that order.

[2] The applicants approached this court for an urgent interim order pending the outcome of an action instituted in this court, where they claim restitution of their shares in the first respondent. The purpose of the interim interdictory relief sought is to have the proceeds of the sale of the first respondent's properties that were transferred on 25 September 2025, be held in trust pending finalisation of the abovementioned matter.

[3] The application was opposed by the first respondent on the basis that the matter is not urgent, and further that the application should be dismissed with costs as the applicants do not have *locus standi* in respect of the relief sought.

### **Brief Facts**

[4] The first applicant, who is cited in his nominal capacity as the executor in the estate of the late Glynn Ward Crawford, asserts that the late Crawford was a shareholder in the first respondent. The second applicant also alleges that he was a shareholder in the first respondent. They both claim restitution of the shares sold by them in 2013 by means of an action instituted in September 2025.

[5] The immovable property in question was registered in the name of the first respondent but has since been transferred into the name of a third party. The largest tranche of the proceeds of sale has already been paid to the first respondent, the balance being payable in tranches of R1 000 000,00 with effect from 30 October 2025. In its answering affidavit, the first respondent avers that the largest tranche of the proceeds has already been disposed of by way of payments to different

companies which the applicants allege were not shareholders of the company. The applicants therefore aver that as they ought to be shareholders, they possess a *prima facie* right in the revenue and assets of the first respondent which is now being squandered despite a pending action.

### **Urgency**

[6] The applicants contend that the matter is urgent in view of the fact that the largest tranche of the proceeds of sale had already been dissipated and there were payments for the balance which were due and payable which needed to be protected. The applicants contend that as soon as they had knowledge of the sale and transfer of the immovable property, they leapt into action and demanded an undertaking from the respondents. The respondents failed to revert to them, and this is what triggered the urgency.

[7] The first respondent denies that the matter is urgent. It avers that the applicants failed to timeously launch the application although it had threatened to do so two months prior. They had not indicated in their papers the reason for the delay in launching the application.

[8] The first respondent referred the court to the letter received from Etienne Bedeker Inc dated 8 August 2025 to the first respondent's attorneys of record, Hartzenberg Inc in which the following is recorded:

*"It has come to our attention that your client is of the intention, or in the alternative already in the process of, alienating the properties situated at Portion 3[...], Farm number 3[...], The Willows, and Portion 3[...], Farm number 3[...], The Willows, currently registered in the name of Utopia Place (Pty) Ltd in which company the Estate of the late Glynn Ward Crawford holds 33% shareholding.*

*We herewith request a written undertaking from your client, by no later than close of business on 12 August 2025, that your client shall refrain from alienating the abovementioned properties, alternatively, should the property already be sold, that the proceeds of the sale be held in trust pending the finalisation of the abovementioned matter. Should we not receive the undertaking as mentioned above, we shall attend to an urgent application for an anti-dissipatory relief, costs of which will be prayed for against your client on a punitive scale."*

[9] The first respondent responded on 12 August 2025 denying any knowledge of the sale of the property and averred further that they had asked their client information pertaining thereto and a copy of the offer to purchase. The letter continued as follows:

*“We have had the opportunity to discuss this with Mr Johan Schneider, who then referred me to Mr Leon Wentzel, who indicated that he was going to Germany, but that the transfer of the property would be done by the attorneys of the purchase of the property and that the sale and transfer of the property is not imminent as far as we understand.*

*However, writer hereof has no further instructions or information or knowledge of the transaction and we also do not have a copy of the offer to purchase in our possession to be able to provide it to you and assist you in this regard and we therefore cannot provide you with any undertaking and for as far as service of documentation on Mr Johan Schneider is required, we consent thereto that any such documents may be served at our offices herein.”*

[10] A court is obliged in its determination of urgency to interrogate the allegations of the parties in the papers and decide whether the matter should be heard on an urgent basis. In terms of Rule 6(12)(b) of the Uniform Rules of Court a party seeking urgent relief must set out explicitly in its affidavit, the circumstances which render the matter urgent with full and proper particularity and must also set out the reason why he or she would not be afforded redress at a later date.

[11] The test for urgency in applications was enunciated in the case of *East Rock Trading 7 (Pty) Limited and Another v Eagle Valley Granite (Pty) Limited and Others*<sup>1</sup>. An applicant needs to say why he will be afforded substantial redress in due course. The applicant needs to demonstrate to the court that should the matter proceed in the normal course of legal proceedings, he will not obtain effective relief. Furthermore, he needs to explain the reason for the delay in launching the application where there is such delay.

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<sup>1</sup> [2011] ZAGPJHC 163 (23 September 2011)

[12] The applicants contend that as soon as they became aware of the fact that their sale of shares agreement in the first respondent was null and void, they consulted an attorney to draft summons for the restitution of their shareholding positions. It was at this time that they were made aware that there was an offer to purchase pertaining to the immovable property of the first respondent and they then instructed their attorneys of record to make the enquiries as stated above. The applicants contend further that the response received from the first respondent's attorneys of the 12 August 2025 that the transfer was not imminent was not true and was misleading as it was transferred shortly thereafter. On 15 October and by pure chance, they ascertained from an heir in the estate of the deceased, that the property had been transferred and registration of the transfer had taken place on 25 September 2025. When they were unsuccessful in resolving the matter with the first respondent's attorneys pertaining to the proceeds of sale, they launched this urgent application. The applicants contend further that it was during this telephone conversation that they ascertained that the largest part of the proceeds had been transferred directly to the first respondent and that the balance was due to be paid in monthly instalments with effect from 30 October 2025. The applicants contend that the urgency lies in the reasonable fear that the first respondent and its directors would dissipate the proceeds of sale and no proceeds would be left as they are not privy to the financial health or commitments of the first respondent. Accordingly, they would be substantially prejudiced if the court was not inclined to grant the order sought.

[13] I have noted in the letter from the applicants' attorneys that a date of 12 August 2025 was given as the date by which the first respondent should have undertaken to refrain from alienating the properties. I note further that the first respondent's response to the letter was that they had no information with regards to the sale of the property and that they did not have a copy of the offer to purchase. In his submissions counsel for the applicants contended that owing to the letter received from the first respondent's attorneys, they were assured that the sale and transfer were not imminent. I disagree with this.

[14] Firstly one needs to look at the letter first dealing with the issue of the alienation of property. It starts off with:

*“It has come to our attention that your client is of the intention, or in the alternative already in the process of, alienating.....”*

The letter demands an undertaking by 12 August 2025 failing which an urgent application for anti-dissipatory relief together with costs would be sought.

[15] Then the response should be looked at in its totality. The first respondent's attorneys first indicate their lack of knowledge of the transaction and that they are not in receipt of the offer to purchase. They then say that according to their understanding, the sale and transfer is not imminent. I also note that an invitation is made to serve documents on their offices for Mr Johan Schneider. If the matter was so urgent, it is then expected that immediately it came to the attention of the applicants of an impending sale, they would have launched the application. That would have been on or shortly after 12 August 2025. They already had knowledge that there was an impending sale. No explanation is given to the court for the lapse in time being from 12 August to when the application was actually launched other than saying that they were informed that the sale and transfer were not imminent. Accordingly, I am of the view that urgency is self-created and as such, I am of the view that the matter should be struck for lack of urgency. However, as I have considered the facts of the case, I deem it necessary to deal with the merits of the matter.

[16] It is common cause that the applicants are former shareholders in the first respondent, that being so until 1 July 2013 in respect of the first applicant and 1 March 2013 in respect of the second applicant. This is evident from the share certificates filed as annexures of the first respondent's answering affidavit.

[17] However, the applicants contend that they have a *prima facie* right to the shareholding of the first respondent as the sale of shares agreement concluded by them was void *ab initio*. Furthermore, the applicants contend that upon the launching of the action claiming restitution of the shares, they have a *prima facie* right that the first respondent's assets should not be dissipated whilst the action for the restitution of the shares is pending. Should the court not grant the interdict, and the assets dissipated whilst the action is pending, they will obtain shares in a worthless entity.

[18] Shares in a company are transferred by cession. Such transfer is accomplished by means of an agreement of transfer between a cedant and cessionary where there is an intention by the cedant to transfer the right to the cessionary. The agreement of transfer may coincide with or be preceded by a *justa causa* such as an agreement of sale or even contract of exchange or donation.<sup>2</sup> This list is not exhaustive. This position was followed in the matter of *Botha v Fick 1995 (2) SA 750 (A) at page 762 A-C*. I agree with the position of the first respondent that the applicants are not shareholders in the company as the shares had already been transferred.

[19] Furthermore, a cursory look at the share register indicates that the shares were transferred on the dates specified above and that the applicants are not owners of any shares in the company. This is *prima facie* proof of its contents. Whilst it is common cause that the sale of shares agreements is null and void, the transfer agreements effectively resulted in ownership of the shares passing. Accordingly, the applicants' contentions and reliance on being the *de facto* shareholders of the first respondent is misplaced.

[20] Accordingly, I am of the view that the applicants have no standing in law to seek the relief sought in the application. This is dispositive of the matter.

### **Order**

[21] The order granted is as follows:

The application is dismissed with costs on Scale "C" inclusive of the cost consequent upon the employment of two counsel.

SNI MOKOSE J  
Judge of the High Court  
of South Africa, Gauteng Division  
Pretoria

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<sup>22</sup> *Johnson v Incorporated General Insurances Ltd 1983 (1) SA 318 (A) at p331G - H*

For the Applicant: Adv L van Gass  
On instructions of: SD Nel Attorneys

For the Respondent: Adv GF Heyns SC  
Adv M Jacobs  
On instructions of: Hartzenberg Inc

Date of Hearing: 30 October 2025  
Date of Reasons: 17 November 2025