



IN THE HIGH COURT OF SOUTH AFRICA  
GAUTENG DIVISION, PRETORIA

|                        |                                                                                   |
|------------------------|-----------------------------------------------------------------------------------|
| (1)                    | REPORTABLE: NO                                                                    |
| (2)                    | OF INTEREST TO OTHER JUDGES: NO                                                   |
| (3)                    | REVISED:                                                                          |
| <u>5 December 2025</u> |  |
| DATE                   | SIGNATURE                                                                         |

**Case No. 14508/22**

In the matter between:

**RENÉ THORNHILL N.O.**

**First Applicant**

**JACQUES LOUWRENS N.O.**

**Second Applicant**

and

**ADELE REYER**

**First Respondent**

**JURGENS DREYER**

**Second Respondent**

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**NEUKIRCHER J:**

1] The present judgment concerns only the issue of costs, the balance of the relief

set out in the application and the counter-application having being essentially agreed by the parties during the course of the argument that took place on 27 November 2025 and an order made by agreement on that date.

2] When only costs remain for decision, the matter is determined in broad general lines, and not by way of a full judgment on the merits of the matter. In *Jenkins v South African Boilermakers Iron and Steel Worker's and Ship Builders Society*<sup>1</sup>, it was stated:

“When a case has been disposed of by an offer which concedes the main claim and the costs of the whole case have still to be decided, I think the Court must do its best within the material at its disposal to make a fair allocation of costs employing such legal principles as are applicable to the situation. This is much preferred to laying down a principle which requires Courts to investigate dead issues to see who would have won on such issues. In such cases, the litigants would be required to incur far greater costs than those at stake. In my view the costs must be decided on broad general lines and not on lines that would necessitate a full hearing on the merits of a case that has already been settled.”

3] Although this matter was not settled prior to the hearing, it became very clear very quickly that the order made by this court on 3 June 2025, and the events that had transpired since that order, had dramatically altered the landscape of both the application and the counter-application. This was reinforced by the recommendation of the *curatrix ad litem* (Ms Mentz) and the withdrawal of the respondents' attorneys of record on 24 October 2025. I wish to mention that I do not intend to delve into the merits of the matter in any great depth.

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<sup>1</sup> 1946 WLD 15

4] Mrs Louwrens (who is the patient) is the mother of the two applicants and the first respondent. The family's background is sadly tumultuous and characterised by extreme physical and psychological abuse by their late father. The situation was exacerbated by the fact that Mrs Louwrens suffers from schizophrenia.

5] On 17 March 2020, and in an application brought by the second applicant, Mrs Louwrens was declared incapable of managing her own affairs in terms of Rule 57. The first applicant was appointed as her *curator ad personam* and the second applicant as her *curator bonis* by that court. It is important to note in the present proceedings the respondents admit that Mrs Louwrens remains incapable of managing her own affairs. They take issue not with the declarator granted on 17 March 2020, but the appointment of the applicants as the respective *curators*.

6] Over and above the usual powers afforded to a *curator bonis* under the Administration of Estates Act 66 of 1965, the first applicant (as *curator ad personam*) was granted *inter alia* the power to:

- a) exercise custodial powers in regard to matters relating to Mrs Louwrens' person, and physical and mental wellbeing;
- b) determine where she is to live;
- c) exercise all powers as may be necessary to ensure her safety and wellbeing;
- d) exercise the powers granted to her in terms of the court order in cooperation with the *curator bonis* and subject to the availability of funds.

7] It is common cause that Mrs Louwrens is estranged from the two applicants and has been for some time. The applicants blame the respondents for this whilst they, in turn, blame the applicants. But this has no bearing on the issue of costs.

8] On 3 March 2022 the applicants launched the present application in which they essentially seek an order that the respondents deliver Mrs Louwrens into the care of the first applicant within five days of the grant of the order.

9] The gist of the application is that:

- a) the respondents have completely ignored the order of 13 June 2020 and have ensured that Mrs Louwrens has not only cashed in her Old Mutual policy worth over R230 000, but sold her vehicle for R80 000. It is not disputed that this money ended up in the hands of the respondents, that Old Mutual refunded the *curator bonis* for these funds and that there is litigation pending in the Bronkhorstspuit Magistrate's Court regarding the funds;
- b) that the respondents are living off the money and vouchers given by the second applicant to Mrs Louwrens for her daily needs – the accusation is that this is why they saw to it that she lives with them;
- c) the respondents have not ensured that Mrs Louwrens takes her medication in accordance with the prescriptions and that they have allowed her unrestricted and unsupervised access to over-the-counter medication which has interfered with the efficacy of her prescribed medication and which is also dangerous.

10] Whilst these were the most prominently featured themes of the application, they were not the only concerns the applicants had. As a result, they sought to move Mrs Louwrens to Selrose Park Retirement Village in Pretoria (Selrose Park) where she would have her own unit and where her medical condition could be monitored and her medication regime supervised. The second respondent has been paying the monthly rental on a fully furnished unit in Selrose Park since 2020 and thus there is a unit available for occupation as soon as any order is granted.

11] The respondents, in turn, filed a counter-application in which they sought the removal of the applicants as the respective *curators*, the appointment of a *curator ad litem* to investigate who should be appointed in their place, and upon filing of that report, the recommended persons' appointments.

12] Their allegations centre around the fact that they were not made aware of the previous proceedings until after the order was granted<sup>2</sup>; that the second applicant has abused his position as *curator bonis* and appropriated assets and funds that were not his; that the first applicant has eschewed her responsibilities as *curator ad personam* and that Mrs Louwrens wants nothing to do with her and has no relationship with her.

13] On 3 June 2025 I appointed Ms Mentz as *curatrix ad litem*. Her sole duty was to report to this court on whether or not it is in the interests of Mrs Louwrens to be relocated to Selrose Park. She was given wide powers, including the power to visit

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<sup>2</sup> But it is common cause that in the years since that order they have failed to attempt to set it aside or vary it until the present application was launched

Selrose Park – and any other retirement village – and, importantly, to appoint a psychiatrist and/or psychologist to assist her with her investigation.

14] Adv Mentz's report is dated 3 November 2025 and it was of invaluable assistance to the court. Her recommendation is that it is in Mrs Louwrens' best interest to be relocated to Selrose Park.

15] She appointed Dr Lynette Nel, a psychiatrist, to assist her. In essence, Dr Nel:

a) confirmed Mrs Louwrens' diagnosis of schizophrenia and stated that it *"is a lifelong progressive condition that will require multidimensional treatment."*;

b) stated that Mrs Louwrens needs the assistance of a *curator ad personam*;

c) stated:

"7.8 In a family characterised by excessive criticism, emotional over-involvement and hostility, there is a significant risk factor for relapse in people with schizophrenia. It is seen as a predictor of symptom exacerbation.

7.9 In an assisted living arrangement she can be supported, high expressed emotion can be avoided, she does not have to be dependent on any of her children and her opioid use can be controlled..."

16] Adv Mentz also reported on a change in both Mrs Louwrens' and the respondents' personal circumstances at her second visit in September 2025: the first respondent was not well and informed Adv Mentz that she struggles to cope. The

respondents were also experiencing financial difficulties. Both said that they were tired of the litigation, could not afford it and wanted it to stop – this was repeated by them during the hearing before me.

17] It is important to note that Dr Nel's recommendations are the following:

- “9.1 She resides independent of any of her children in an assisted living facility where there will be an integrated approach between a multiprofessional team to monitor her psychotropic and physical medication. Assisted living will also be in her interest considering her current visuospatial difficulties and the possible deterioration of the latter.
- 9.2 To strive to stop the use of hypnotics, benzodiazepine and codeine containing medication.
- 9.3 To be well supported by medical staff and to provide a safe environment where all her children and grandchildren will be able to visit her at times and not to be influenced by their individual differences.
- 9.4 Psychotherapeutic support during the adjustment phase is recommended.”

18] Following on the release of Adv Mentz's report, her recommendations and those of Dr Nel, it appears that it was accepted that Mrs Louwrens would relocate to Selrose Park. Certainly nothing to the contrary was said before me by the respondents. That then put an end to the applicants' application.

19] As to the counter-application, the respondents did not pursue the relief and, in fact, consented to its withdrawal. However, I wish to point out that it would have served no purpose to grant it at this stage:

- a) firstly, with Mrs Louwrens relocating to Pretoria and the first applicant living near to Selrose Park and being a qualified nursing professional, she is best suited to act as *curator ad personam*;
- b) there is simply no point in appointing a new *curator bonis* as whatever small estate Mrs Louwrens may, at one stage, have had, it is common cause it has been long since been depleted and the second applicant has been supporting her financially for several years.<sup>3</sup> The point is that a new *curator bonis* is entitled to receive a fee in terms of the Administration of Estates Act – as there is no money, it begs the question as to how he/she would be paid and who would pay him/her?

20] Whilst it is certainly so that the applicants have been substantially successful before me, it is quite clear from the papers that all the parties must bear the responsibility for the litigation. Whilst mediation was attempted, unsuccessfully, the reason for that is clearly the parties' fractured relationship and intractable stances that were adopted by all throughout the proceedings until very recently.

21] Perhaps the outcome of the application is a cautionary tale but I am not of a mind to mulct any party with a costs order. Costs remain the ultimate discretion of the presiding judge. Having read all the papers and the reports before me carefully, I am of the view that no purpose is served by making a costs order one way or another. At the end of the day, Mrs Louwrens was the one who suffered through this litigation for the past three years and she is the one to receive the benefit of the order that was

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<sup>3</sup> I make no comment on the source of these funds as that is not the purpose of the proceedings and, as I understand it, there are pending proceedings regarding that issue



made on 27 November 2025 – which was made by agreement. That serves the interests of justice in this matter.

22] It is for that reason that no order for costs will be made.

**ORDER:**

1. Paragraphs 1 to 6 of the order of 27 November 2025 shall remain.
2. Paragraph 7 of the order of 27 November 2025 shall reflect that there shall be no order as to costs.



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**NEUKIRCHER J**  
**JUDGE OF THE HIGH COURT**  
**GAUTENG DIVISION, PRETORIA**

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 5 December 2025.

**Appearances**

|                              |   |                                       |
|------------------------------|---|---------------------------------------|
| For the applicant            | : | Adv Bester SC                         |
| Instructed by                | : | Fairbridges Wertheim Becker Attorneys |
| First and second respondents | : | In person                             |

|                   |   |                  |
|-------------------|---|------------------|
| Curatrix ad litem | : | Adv S Mentz      |
| Matter heard on   | : | 27 November 2025 |
| Judgment date     | : | 5 December 2025  |